

### **§8237. Transfer of permit.**

- (a) The Department shall change the designation of the holder of a permit to the new owner of a permitted vessel upon change of ownership of the permitted vessel, whether the change of ownership is by contract, by operation of law, or otherwise.
- (b) The permit shall not be transferred to any other vessel, except by the issuance of a permit for use of the replacement vessel pursuant subdivision (c) and Sections 8239 to 8241, inclusive.
- (c) The owner of the permitted vessel may seek to retire the permitted vessel from the commercial salmon fishery and apply for transfer of the permit, to be issued pursuant to Section 8241, for use of a replacement vessel.

### **§8238. Establishment of vessel classification system.**

On or before January 1, 1991, the Department, in consultation with the review board, shall establish and adopt, in the manner prescribed in Section 8238.3, a vessel classification system to determine the fishing potential of replacement vessels for applications for transferred permits to be issued pursuant to Section 8241, including consideration of how the vessel from which the permit is sought to be transferred was used, the vessel's highest and best use by a prudent operator, and the fishing potential of prospective vessels for applications for new, original permits.

#### **§8238.1. Use of vessel classification system.**

The vessel classification system shall be used by the Department in consultation with the review board for issuance of new original vessel permits pursuant to Section 8243 and as a guideline for the review board in making its recommendations to the Department on vessel permit transfers.

### **§8239. Transfer of permit to replacement vessel.**

A transfer may be approved and a permit issued for use of a replacement vessel pursuant to Section 8241 under all of the following conditions:

- (a) The vessel owner submits a written request for the transfer to the Department on a form provided by the Department and pays a nonrefundable transfer fee of two hundred dollars (\$200).
- (b) The permit for the permitted vessel is current, and the owner of the permitted vessel makes assurances in the application that any renewal of the permit which becomes due during the application processing period will be made.
- (c) The owner of the permitted vessel submits evidence with the application sufficient to establish that he or she is the owner of the permitted vessel at the time of the application for the transfer.
- (d) The vessel owner submits evidence with the application sufficient in the judgment of the review board and the Department to establish that the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.
- (e) Under penalty of perjury, the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her information and belief.
- (f) The same transfer has not been requested within the previous 12 months or the same transfer has not previously been denied and that denial is final, unless the application or supporting information are different than that contained

in the previous application, as determined by the Department and after consultation with the review board.

- (g) The permittee has 50 percent or greater ownership interest in the permitted vessel and in the replacement vessel. For purposes of this subdivision and subdivision (h) "permittee" means an individual designated as the owner of the permitted vessel.
- (h) Except as provided in Section 8239.1 or paragraph (5) of subdivision (a) of Section 8246.7, the permittee has maintained a 50 percent or greater ownership interest in the permitted vessel for not less than 18 months prior to the date of the transfer and the permit for use of the permitted vessel has been maintained for that vessel and has not been previously transferred less than 18 months prior the date of the transfer.
- (i) The permittee has written authority from the legal owner, if other than the permittee or mortgager, if any, to transfer the vessel permit from the permitted vessel.

#### **§8239.1. Transfer of permit where vessel is lost, stolen, or destroyed.**

- (a) Unless otherwise prohibited, the Department shall accept a transfer application within one year after the date that a permitted vessel was lost, stolen, or destroyed, notwithstanding any inability to physically examine the permitted vessel to determine its salmon fishing potential. Only the permittee at the time of the loss, theft, or destruction of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire Department investigating the loss.
- (b)(1) The owner, or the owner's agent, may request an extension of the time to complete a transfer under subdivision (a) if the application for extension is submitted before the end of the time to submit an application under subdivision (a), or before the end of any previous extensions granted under this subdivision, whichever date is later.
- (2) The Department, after consultation with the review board and for goodcause shown, including, but not limited to, inability to find a replacement vessel or pending litigation, may grant an extension of the time to complete a transfer under subdivision (a) for a period of six months. The Department may grant further extensions under this subdivision, not to exceed a total time period of five years after the date the permitted vessel was lost, stolen, or destroyed if the permit fees are paid annually as required in paragraph (2) of subdivision (b) of Section 8239 and subdivision (c) of Section 8240.

#### **§8239.2. Establishment of administrative procedures.**

The Department, in cooperation with the review board, shall establish and implement administrative procedures for the administration of this article.

#### **§8239.6. Period of validity of permit for replacement vessel.**

A permit issued for the use of a replacement vessel under Section 8241 is valid for the balance of the permit year for which the permit for the use of the permitted vessel was originally issued or last renewed, and the permit issued under this section

authorizes the use of the replacement vessel only for that period.

### **§8239.9. Determination of fishing potential of vessel prior to transfer application.**

Notwithstanding Section 8239, 8239.1, or 8239.2, any person may request the review board to determine the fishing potential of any permitted vessel or any replacement vessel before a transfer application for a permit for use of a replacement vessel is submitted the Department. The person making a request under this subdivision is not required to be the owner of either vessel. A determination under this subdivision is not binding on the review board or the Department and is only advisory.

### **§8240. Grounds for refusal to issue permit for replacement vessel.**

- (a) The Department shall not issue a permit for use of a replacement vessel if the permitted vessel was reported as lost, stolen, or destroyed by fraudulent means or for fraudulent purposes.
- (b) The Department shall not issue a permit for use of a replacement vessel if the application contains or is accompanied with fraudulent or willfully misleading information.
- (c) The Department shall not issue a permit for use of a replacement vessel or to a new owner of a permitted vessel of the permit for the permitted vessel expires and is not renewed. Except as provided in Section 8235, an owner of a permitted vessel shall renew the permit before the expiration date even if that owner has a transfer application pending.
- (d) The Department may refuse to issue a permit for use of a replacement vessel or to issue a permit to a new owner of a permitted vessel on any grounds for which a permit may be suspended or revoked.

### **§8241. Criteria for issuance of permit for replacement vessel.**

The Department shall issue the permit for use of a replacement vessel if it determines, after consultation with the review board, the following:

- (a) The replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel. The review board and the Department shall consider the type of fishery the vessel was previously used in and the vessel's highest and best use by a prudent operator, and the review board shall make written findings on those facts.
- (b) The replacement vessel's fishing potential will not substantially increase fishing capacity over that which resulted from the operation of the permitted vessel.
- (c) The applicant owns the replacement vessel.
- (d) The conditions in this article are satisfied.

#### **§8242. Permit to gain entry into fishery.**

A person seeking to gain entry into the commercial salmon fishery may obtain a permit under either of the following conditions:

- (a) By legally obtaining the ownership of a permitted vessel and notifying the Department of the change of ownership of the permitted vessel.
- (b) By applying to obtain a new, original permit issued by the Department pursuant to Sections 8244 and 8245.

#### **§8243. Issuance of new, original permits.**

- (a) If the Department determines that the number

of permitted vessels is less than 2,500, the Department shall determine, after consultation with the review board, the number and vessel classification for which any new, original permits may be issued to bring the total number of permitted vessels to no more than 2,500.

- (b) New original permits to be issued shall be authorized by vessel classifications established under Section 8238.

#### **§8244. Application for new, original permit.**

- (a) An applicant may apply for a new, original permit as either an individual, a joint venture, or a corporation. The applicant may submit only one application annually. The application shall be made on a form provided by the Department.
- (b) An applicant for a new, original permit under this section shall submit a completed application as directed by the Department. The completed application, and the application fees prescribed in subdivision (c), shall be delivered or postmarked on or before February 1, in order to be considered for permits for the subsequent permit year.
- (c) The applicant shall submit with the application a nonrefundable application fee determined by the Department in an amount sufficient to pay the costs of administering the issuance of new, original permits by the Department, which shall be not less than thirty-five dollars (\$35).
- (d) The Department, after consultation with the review board, shall determine the fishing potential of the vessel for use of which the new, original permit is to be issued and otherwise determine if the applicant is eligible to be issued a permit under this article.

#### **§8245. Drawing for new, original permits; Fees; Requirements.**

- (a) The Department shall conduct a drawing from the applicants determined to be eligible for new, original permits pursuant to Section 8244 on the first Friday in March of each year that new, original permits are authorized to be issued pursuant to Section 8243.
- (b)(1) The Department shall issue a permit to each of those applicants who are drawn upon payment of the fees prescribed in paragraph (2) for the permit and, except as provided in subdivision (d), submittal of sufficient information to establish that the applicant is the owner of a vessel within the vessel classification designated in the application.
- (2) The amount of the fees for a permit issued under this section are the same as the amount of the fees for renewal of a permit for the subsequent license year beginning on April 1 which are established pursuant to subdivision (b) of Section 8235. A successful applicant shall pay the fees for the permit on or before March 31. The Department shall deposit the fees the fund pursuant to Section 13001.
- (c) Except as provided in subdivision (d), a successful applicant shall submit proof of ownership of the vessel to be used under the permit within 90 days of the drawing.
- (d)(1) A successful applicant may request one extension of no more than 90 days to obtain a vessel as designated in the application. The Department, after consultation with the review board, may grant that extension.
- (2) If any successful applicant does not establish that he or she is the owner of a vessel as design-

nated in the application and affix the new permit on that vessel or on another vessel with the same or less fishing potential, as determined by the Department after consultation with the board, within 90 days or by the end of a 90 day extension granted by the Department, the new permit is null and void.

- (3) The Department or the review board is not liable for any risk of failure by the applicant obtain a vessel which is designated in an application or to complete the process for determination of the fishing potential of another vessel, or for failure by the applicant to obtain that other vessel, in the time prescribed in this section.

#### **§8245.5. Review of new entry provisions.**

The review board shall review the effectiveness of new entry provisions every three years beginning three years following the first permit drawing and make recommendations to the Department for any changes it finds to be needed in the new entry system.

#### **§8246. Suspension or revocation of fishing privilege; Civil damages.**

- (a) At any time after notice of an order suspending or revoking of a person's commercial salmon fishing privilege is issued by the Commission, and before the order of suspension or revocation is final, the Commission may, with the agreement of the person subject to the action, compromise or dismiss the action to suspend or revoke the commercial salmon fishing privilege in the best interests of the state, or the Commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.
- (b) The Commission, after notice and opportunity for hearing and consultation with the review board, may suspend or revoke the commercial fishing privilege, authorized under a license issued for the purposes of Section 7850 or 7852.3, for any violation of a term or condition of an agreement to compromise or dismiss a separate suspension or revocation action which was made pursuant to subdivision (a).
- (c) If the Commission orders a suspension or revocation of a person's commercial salmon fishing privilege, any permit issued pursuant to this article shall be renewed when the next renewal is due or the permit shall expire as provided in Section 8233.
- (d) Subdivision (b) does not apply if an action is brought to recover civil damages under Section 2014 from the person subject to action under this section.

#### **§8246.2. Amount of civil damages.**

- (a) The Commission, in consultation with the Department and the review board, shall adopt regulations for the determination of civil damages provided for in subdivision (b) of Section 8246 which give due consideration to the appropriateness of the civil damages with respect to all of the following factors:
- (1) The gravity of the violation.
  - (2) The good faith of the convicted licensee.
  - (3) The history of previous violations.
  - (4) The damage to the fishery.
  - (5) The cost of restoration of the fishery.

- (b) Civil damages imposed under subdivision (b) of Section 8246 shall be due and payable on or before a date which is 30 days after the compromise is entered into.

#### **§8246.4. Revocation of permit obtained by fraud.**

The Commission, after notice and opportunity for hearing and consultation with the review board, shall revoke a commercial salmon vessel permit issued pursuant to this article if the vessel permit was obtained by fraudulent means.

#### **§8246.6. Appeals of adverse orders regarding permits.**

A person whose commercial salmon fishing vessel permit is revoked by the Commission or who has been denied a permit transfer may appeal the revocation or denial to the Commission by submitting the appeal in writing to the Commission within 60 days of the decision.

#### **§8246.7. Reversal of adverse order regarding permit.**

- (a) The Commission shall reverse an order of revocation, order the permit renewed, or order the approval of a permit transfer only if it finds one of the following grounds:
- (1) The permittee failed to submit an application and pay the fees for renewal on or before April 30 pursuant Section 8235 and the failure to renew a permit until after the expiration date was due to death, physical illness, mental incapacity, or being called to active military duty, and the person was not reasonably able to have an agent renew the permit.
  - (2) A lienholder of a permitted vessel, if the vessel is the property of the lienholder as a result of foreclosure, surrender, or litigation, can show loss due the non-renewal of a permit by the permittee, and the non-renewal occurred without the knowledge of the lienholder.
  - (3) If, in the case of permit revocation because of fraud, evidence is provided to the Commission disputing the charges of fraud. If the Commission finds there was no fraud after consideration of all of the evidence, the Commission may order the revocation annulled, and, if the permit expiration date has passed during the pendency of the hearing on the appeal, the Commission may order the Department to renew the permit upon payment of the fees.
  - (4) The denial of the permit transfer was arbitrary or capricious.
  - (5) The denial of the permit transfer was pursuant to subdivision (g) or (h) of Section 8239 and the applicant can show that the 18-month requirement cannot be met due to death, physical illness, mental incapacity, or being called to active military duty.
- (b) Each appeal shall be heard and considered separately on its own merits.

#### **§8246.8. Authority to make and enforce regulations.**

The Commission and the Department may make and enforce regulations that may be necessary or convenient for carrying out any power, authority, or jurisdiction delegated to it under this article.

#### **§8247. Establishment of review board.**

There is in the Department a commercial salmon fishing review board, which consists of five voting members appointed by the director. The director

# 2008 RED SEA URCHIN FISHERY CLOSURE DATES

## (Title 14, §120.7 (I))

Closures apply to red sea urchins only. Purple sea urchins may be taken at any time.  
There are no closed days in January, February, March, November, or December.

For more information, contact the Department of Fish and Game:

Marine Region: (831) 649-2870  
Los Alamitos office: (562) 342-7100  
Fort Bragg office: (707) 964-9078

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 = Days closed to fishing



or a designee of the director shall attend meetings of the review board as a nonvoting member. The director may remove a member of the review board for cause.

#### **§8247.1. Membership of board.**

- (a) Three of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by associations or groups representing commercial salmon fishing vessel owners.
- (b) Two of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by individual commercial salmon fishing vessel owners.
- (c) Any voting member of the review board may appoint an alternate member to represent him or her at any meeting of the review board. The director may, within 60 days of the appointment, refuse an alternate member. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties of a member of the commercial salmon fishing review board, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

#### **§8247.2. Terms of appointment of board.**

The terms of the members of the review board shall be for staggered four year terms. Necessary and proper expenses shall be paid to review board members. Each member, or any alternate member participating on behalf of a regular member in that member's absence, shall receive one hundred dollars (\$100) per day for each day of attendance and participation in meetings of the review board.

#### **§8247.4. Function of board; Quorum.**

The review board shall function as an advisory body to the Department regarding implementation of the provisions of this article. The review board shall act by a majority vote of the members present and voting. The review board shall not act unless there is a quorum of the voting members, including alternate members in the absence of their appointing members, and the director or his or her designee present.

#### **§8247.5. Membership of board exempt from Government Code prohibition.**

- (a) The Legislature declares that individuals appointed as members of the review board shall be chosen from the commercial salmon fishing industry in order to represent and further the interest of the industry and commercial salmon fishing vessel owners, and this representation serves the general public interest.
- (b) Each member of the review board is exempt from Section 87100 of the Government Code, unless the result of his or her actions taken as board members has a material financial effect on him or her distinguishable from its effect on other members of the commercial salmon fishing industry generally.

#### **§8247.6. Impartiality of board members.**

Members and alternate members of the review board shall act in the best interest of the state, the Department, and the commercial salmon fishing industry. As members of the review board, no member or alternate member shall take any action, because of his or her position, that results in a di-

rect material effect on any of them, distinguishable from its effect on other members of the commercial salmon fishing industry.

#### **§8247.7. Standards and criteria for activities of review board.**

The director may adopt standards and criteria by regulation that shall be applied by the review board in carrying out its activities under this article.

#### **§8247.8. Actions by board.**

The review board shall do all of the following:

- (a) Consider and make recommendations to the Department on requests for permit transfers.
- (b) Recommend to the Department, the number and classification of new vessel permits to be issued annually, if any, pursuant to Section 8243.
- (c) Consult with and advise the Commission as required by Section 8246, 8246.2 and 8246.4.
- (d) Consult with the Department and advise on the establishment of the vessel classification system pursuant to Section 8238.

#### **§8248. Provisions of article are severable.**

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

### **Sardine**

#### **FGC Excerpts**

#### **§8150.5. Taking for bait purposes; Limits; Records; Notice.**

- (a) Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.
- (b) This section does not prohibit the possession or use of sardines imported into this state under a bill of lading identifying the country of origin.
- (c) Imported sardines may be used for dead bait under regulations adopted by the Commission

#### **§8150.7. Legislative intent.**

It is the intent of the Legislature that the sardine resource be managed with the objective of maximizing the sustained harvest. The department shall manage the sardine resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.

#### **§8154. Possession for unauthorized purpose.**

No person shall receive, possess, or sell sardines for any purpose except for that purpose specified on the fish receipt completed at the time of landing of those sardines pursuant to Section 8043.

#### **§8870. Authorized use; Restrictions.**

Dip nets may be used subject to the following restrictions:

- (a) In districts 1, 11/2, 2, 3, and 4, dip nets may not be baited, and may not measure more than six feet in greatest breadth.
- (b) In District 19, hand-held dip nets 30 feet or less in greatest breadth may be used. In that district dip nets may not be used within 750 feet of any pier, wharf, jetty, or breakwater, except to take anchovies, squids, and sardines for bait, and to take smelt.

- (c) In District 20, hand-held dip nets 30 feet or less in greatest breadth may be used.

### **Sea Cucumber**

Sea cucumber permit holders are also subject to the provisions of §190, Title 14, of the CCR.

#### **FGC Excerpts**

#### **§8405. (Inoperative April 1, 2010; Repealed January 1, 2011) Permit requirements.**

- (a) Sea cucumbers shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued to that person, which has not been suspended or revoked.
- (b) When taking sea cucumbers by diving, every diver shall have a sea cucumber diving permit issued to that person, which has not been suspended or revoked. When taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person, which has not been suspended or revoked.

#### **§8405.1 (Inoperative April 1, 2010; Repealed January 1, 2011) Application for sea cucumber permit; Gear type; Fee; Renewal.**

- (a) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.
- (b) The fee for a sea cucumber permit shall be two hundred fifty dollars (\$250).
- (c) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.
- (d) In order to renew a sea cucumber permit for any permit year, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be received by the department or, if mailed, postmarked, by April 30 of the permit year.

#### **§8405.2 (Inoperative April 1, 2010; Repealed January 1, 2011) Transfer of permit.**

- (a) A sea cucumber permit may be transferred by the permittee if the permittee has previously held a valid sea cucumber permit for any four permit years and landed at least 100 pounds of sea cucumbers in each of those permit years, as documented by landing receipts with the name of the permittee shown on the receipts.
- (b) A sea cucumber permit may be transferred only to a person who has a valid commercial fishing license issued pursuant to Section 7852, that has not been suspended or revoked. A sea cucumber permit shall not be transferred to any person who has had a sea cucumber permit suspended or revoked while the suspension or revocation is in effect.
- (c) An application for transfer shall be submitted to the department, with such reasonable proof as the department may require to establish the qualifications of the permit holder and the person the permit is to be transferred to, accompanied by payment to the department of a nonrefundable

transfer fee of two hundred dollars (\$200). The transfer shall take effect on the date notice of approval of the application is given to the transferee by the department.

- (d) A sea cucumber trawl permit may be transferred to any qualified person as provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of trawl nets. A sea cucumber dive permit may be transferred to any qualified person as provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The transferee shall specify the gear type, either trawl or dive, that the transferee intends to use to take sea cucumbers. The gear type of the sea cucumber permit, either trawl or dive, shall not be transferable.

### **§8405.3 (Inoperative April 1, 2010; Repealed January 1, 2011) Protection of sea cucumbers; Number of permits; Revocation of permit; Cost of enforcement.**

- (a) The Commission, upon recommendation of the department or upon its own motion and in consultation with the sea cucumber fishing industry, may adopt regulations, including provisions governing seasons, gear restrictions, hours of operation, and any other measures that it determines may reasonably be necessary to protect the sea cucumber resource and to assure a sustainable sea cucumber fishery or to enhance enforcement activities.
- (b) The number of sea cucumber permits issued for the April 1, 1997, to March 31, 1998, inclusive, permit year shall constitute the maximum number of permits available for all subsequent permit years for the sea cucumber fishery. The department may establish by regulation a method, if necessary, to reissue any sea cucumber permit not renewed or transferred. The permit type of a sea cucumber permit, either trawl or dive, that is reissued shall not be transferable.
- (c) The Commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The Commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any revocation of a permit pursuant to this subdivision shall be in addition to any action the department may take pursuant to Section 12000.
- (d) Subsequent to the 1997-98 permit year, the department, using existing funds, may determine the actual costs to the department of enforcing this article. The Commission, upon recommendation of the department, may adjust the fee for the issuance or transfer of a permit to an amount not to exceed three hundred fifty dollars (\$350), to reflect the actual cost of enforcing this article.

### **§8405.4. (Inoperative April 1, 2010; Repealed January 1, 2011) Repeal of article.**

This article shall become inoperative on April 1, 2010, and as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

#### **Sea Urchin**

Sea urchin permit holders are also subject to the provisions of §123 and §190, Title 14, of the CCR.

## **Title 14 Excerpts**

### **§120.7. Taking of Sea Urchins for Commercial Purposes.**

#### **(a) Permit Required.**

- (1) Any person taking or assisting in the taking of sea urchins for commercial purposes shall have obtained a valid sea urchin permit and shall be in possession of said permit when engaged in such activities. A sea urchin diving permit is not required to operate or assist in operating a vessel used to take sea urchins, however, no person without a valid sea urchin diving permit shall engage in diving from a vessel from which sea urchins are being taken or possessed for commercial purposes, unless authorized by the Department's marine region regional manager or his or her designee for the purposes of sea urchin management or research.

- (2) To provide an economic incentive for cooperative sea urchin management and research activity, and notwithstanding any other portion of this section, the Department may authorize the holder of a valid sea urchin diving permit to harvest (take, possess, land and/or sell) red sea urchins during a closed season or in a closed area, subject to such restrictions regarding date(s), location(s), time(s), size, poundage or other matters as specified by the Department. Any data collected during such harvest activity shall be made available to the Department. The form of this authorization shall be a letter from the Department's marine region regional manager or his or her designee issued to the permittee and containing all conditions of use.

#### **(b) Classes of Permits.**

- (1) Sea Urchin Diving Permit. Sea urchin diving permits will be issued to licensed commercial fishermen 16 years of age or older who have qualified for permits pursuant to subsection (c).
- (2) Sea Urchin Crewmember Permit. Sea urchin crewmember permits will be issued to licensed commercial fishermen 16 years of age or older who do not qualify for sea urchin diving permits.

#### **(c) Prior Permittees:**

- (1) Applicants for sea urchin diving permits must have held a valid, unrevoked sea urchin diving permit in the immediately preceding permit year (April 1-March 31).
- (2) Applications for renewal of sea urchin diving permits shall be received by the Department or, if mailed, postmarked no later than June 30 of each permit year. Each application must be accompanied by evidence that the qualification requirements specified in this subsection have been met. Applications received by the Department or, if mailed, postmarked after June 30 and before August 1 will be assessed a \$50 late fee. Applications received by the Department or, if mailed, postmarked after July 31 will not be considered.

#### **(d) Number of Permits.**

- (1) All qualified prior sea urchin diving permittees shall be eligible to receive diving permits regardless of the number issued.
- (2) If the number of diving permits issued to prior permittees is more than 300, the total number of new sea urchin diving permits available for issuance shall be one-tenth the difference between the total number of sea urchin diving permits issued prior to August 1 of the current permit year and the total number of sea urchin permits issued during the immediately preceding permit year. If the number of diving permits issued to prior

permittees is less than 300, the number of new sea urchin diving permits to be issued shall be the difference between the number of diving permits issued to prior permittees and 300. If the number of permits issued to prior permittees is 300, no new sea urchin diving permits shall be available.

#### **(e) New Permittees:**

- (1) Applications for the issuance of any new sea urchin diving permits that may become available each year shall be received by the Department or, if mailed, postmarked no later than June 30. Applications shall be submitted to the Department's License and Revenue Branch, 1740 N. Market Blvd., Sacramento CA 95834. If any new sea urchin diving permits are available for issuance, as provided in subsection (d)(2), they shall be issued to licensed commercial fishermen who held, for each of the two immediately preceding permit years, a valid sea urchin crewmember permit.

- (2) If there are more applicants for sea urchin diving permits than there are permits available, a drawing will be held to determine which applicants will be eligible to purchase permits. Any person who submits more than one application for a new sea urchin diving permit in any one permit year will be excluded from the drawing. Each applicant who meets the criteria in subsection (e)(1) shall be entered into the drawing once. In addition, each applicant shall be entered into the drawing one more time for each additional year, above the minimum required two years, that the applicant possessed a valid sea urchin crewmember permit. No applicant shall be entered more than five times for each drawing. The drawing will be held on the third Wednesday in August each year. Permits will be issued to successful applicants in the order drawn. Payment of the fee for the sea urchin diving permit must be received at the Department's License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834 on or before September 25.

- (f) Fee. The fee for sea urchin crewmember permits shall be the amount authorized by Section 699 of these regulations.

- (g) Appeal. Any applicant who is denied a sea urchin diving permit for any reason may appeal the denial to the Department in writing, describing the basis for the appeal. The appeal must be received by the Department not later than March 31 following the permit year in which the appellant last held a valid sea urchin diving permit. The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission within 60 days of the date of the Department's decision.

- (h) Vessel Identification. When sea urchins are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least 10 inches high, and on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the vessel's commercial registration number.

#### **(i) Conditions of the Permit:**

- (1) No person shall take or possess lobsters or abalone aboard any boat used to take sea urchins under these regulations on any day that sea urchins have been taken or are to be taken.
- (2) Hydraulic lifts and air lifts shall be used only in such a manner that no rocks or other mineral matter, aquatic plants, fish or other aquatic life

except sea urchins, shall be removed from the bottom or otherwise disturbed.

- (j) Revocation of Permits. Any permit may be suspended, revoked, or canceled by the Commission upon breach or violation of any fish and game regulation pertaining to the take of sea urchins or abalone; or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

- (k) Exemption from Tidal Invertebrate Permit. A sea urchin diver or sea urchin crewmember operating under the provisions of this section is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of section 123, Title 14, CCR.

- (l) Fishing Season.

- (1) From November 1 through March 31 the open season for red sea urchins is seven days per week.
- (2) In April, May, September and October the open season for red sea urchins is Monday, Tuesday, Wednesday and Thursday.
- (3) In June and August the open season for red sea urchins is Monday, Tuesday, and Wednesday.
- (4) In July the season for red sea urchins is Monday and Tuesday.
- (5) During any closed period, no red sea urchins may be possessed on any commercially registered vessel, except that any commercially registered vessel may transport red sea urchins after any closure goes into effect, provided that the vessel is in port no later than 0800 hours on the first day of the closed period.

- (m) Logbooks. Any person who operates a vessel used for the commercial harvest of sea urchins shall prepare a daily record of the vessel's sea urchin fishing activities on a form (DFG-120.7 (5/99)), incorporated herein by reference, provided by the Department before the sea urchins are landed. The completed daily records shall be sent to the Fort Bragg office of the Department of Fish and Game for fishing activities north of the Monterey-San Luis Obispo county line, and to the Los Alamitos office for fishing activities south of the Monterey-San Luis Obispo county line on or before the tenth day of each month following the month to which the records pertain.

- (n) Closed Areas.

- (1) Sea urchins shall not be taken for commercial purposes in state marine reserves or state marine parks. Specific regulations in state marine conservation areas may prohibit the commercial take of sea urchins as per subsection 632(b).
- (2) The Gerstle Cove area in Salt Point state Marine Conservation Area (Sonoma County) is closed to all commercial fishing for sea urchins. This area is delimited as all the ocean waters east of a line extending 180° true from the southernmost point of Salt Point (38° 33.92' N. lat. 123° 19.89' W. long.) and north of a line extending 270° true from the westernmost point of land of the unnamed point at the southern end of Gerstle Cove (38° 33.6' N. lat. 123° 19.37' W. long.).
- (3) The South Caspar Point area in Mendocino County is closed to all commercial fishing for sea urchins. This area is bounded on the north by a line extending 90° magnetic from sea to the mouth of Caspar Creek (north bank) in Caspar Cove, on the south by the northern boundary of the Point Cabrillo state Marine Conservation Area and its westward extension to the 120-foot depth contour, on the west by 120-foot depth contour line connecting the north and south boundary lines, and on the East by the mainland

shore. The Point Cabrillo state Marine Conservation Area remains closed to the take of all forms of marine life except as permitted in subsection 632(b).

- (o) Size Limit.

- (1) In southern California (south of the Monterey-San Luis Obispo county line) no red sea urchin between one and one-half (1½) and three and one-quarter (3¼) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, may be taken, possessed, sold, or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.
- (2) In northern California (north of the Monterey-San Luis Obispo county line) no red sea urchin between one and one-half (1½) and three and one-half (3½) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, may be taken, possessed, sold or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.
- (3) Red sea urchins less than one and one-half (1½) inches in shell diameter shall not be considered as part of the thirty (30) undersized red sea urchins per permittee per load that may be taken, possessed, sold or purchased.
- (4) Every sea urchin permittee shall carry and use an accurate measuring device, to determine the size of red sea urchins being taken as specified in subsections (o)(1) and (o)(2) above, while diving for sea urchins for commercial purposes.
- (p) Authorization of an Assistant for a Sea Urchin Diver Permittee.

- (1) Authorization by Department. The holder of a sea urchin diving permit, who, after entering the sea urchin fishery, becomes, due to a severe unforeseen or catastrophic long-term (expected to be for one year or longer) or permanent injury or disease, physically unable to dive, may designate a specific individual as an assistant, upon written approval from the Department. The Department may authorize, in writing, any one specific individual to be designated by the permittee as an assistant, providing the following conditions have been met:

- (A) The permittee provides documentation from a qualified physician that the permittee suffers from the disease or injury and it will prevent the permittee from diving. Such conditions shall not include short or long-term common illnesses, conditions caused or primarily exacerbated by aging, or any other condition which appears to be marginal or common, such as routine back or neck problems;
- (B) The permittee has no violations or pending violations for which his or her permit could be revoked;
- (C) The proposed assistant has a current California commercial fishing license and has not had any California commercial fishing license or permit suspended or revoked; has never been convicted, and no charges are pending for a violation of any provision of the Fish and Game Code or Title 14, California Code of Regulations.

- (2) Special Provisions:

- (A) The authorized sea urchin diver assistant may take or assist in the taking of sea urchin only when in the company of the permittee.
- (B) The permittee shall have no authority to, and shall not dive for sea urchin while a valid

letter authorizing the permittee to designate an assistant exists, regardless of whether or not the assistant is actively diving.

- (C) The authorized sea urchin diver assistant shall have no right to ownership or transfer of the permit beyond that which is otherwise provided by law.
- (D) The sea urchin diving permit, in addition to the sea urchin diver assistant authority shall be subject to revocation, suspension or other actions provided in law or regulation, upon violations committed by the assistant, when acting under the authority of a sea urchin diver assistant. The assistant shall take no actions authorized pursuant to a sea urchin diver permit without the consent of the permittee.
- (E) The Department shall review the authority authorized pursuant to this section at least once every year and may withdraw the authority if any of the conditions are not met.
- (3) Fee Requirement. Any person authorized as an assistant pursuant to this subsection shall annually pay a fee to the Department equal to the amount required of permittees pursuant to Fish and Game Code Section 9055.
- (4) Required Possession of Department Authorization. The assistant shall carry the Department's letter of authority whenever conducting activities authorized pursuant to the subsection.
- (5) The Department shall report to the Commission within 18 months of the enactment of these provisions on the merits of the program. The Department shall make a recommendation to the Commission to either continue or discontinue the program, based on achievements and problems associated with the administration of these provisions.

## FGC Excerpts

### \$9054. Rakes, Airlifts, etc. for Taking Sea Urchins; Permits.

Sea urchins shall not be taken for commercial purposes except under a valid sea urchin diving permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the Commission. Rakes, airlifts, or other handheld appliances may be used to take sea urchins. The Commission may, whenever necessary to prevent overutilization or to ensure efficient and economic operation of the fishery, limit the number of permits that may be issued. The Commission, as it determines appropriate to protect the resource, may limit the number of permits either on a statewide basis or within selected geographical areas.

### \$9055. Sea urchin permit fee.

The fee for a sea urchin permit issued authorized pursuant to Section 9054 is three hundred thirty dollars (\$375).

## Spot Prawn Trapping

Spot prawn trap vessel permit holders are subject to the provisions of §180, 180.1, 180.2, 180.3, and 180.5, Title 14, of the CCR.

## Title 14 Excerpts

### \$180.3 Restricted Access Spot Prawn Trap Fishery.

- (a) Control Date. A control date of January 1, 1999, is established for the purpose of developing a restricted access spot prawn trap fishery. Only



those vessels which have made at least one spot prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery. Additional vessels which have made landings of spot prawns with trawl gear between 1994 and 2001 also may be considered for inclusion in the restricted access spot prawn trap fishery (trawl conversion program).

(b) Permit Requirement, Classification of Permits and Permit Conditions. Effective April 1, 2002, no person shall use a vessel to land spot prawns for commercial purposes using traps authorized pursuant to Sections 8591 and 9001 of the Fish and Game Code, unless the owner of that vessel has a general prawn permit, issued pursuant to Section 9001 of the Fish and Game Code, and a spot prawn trap vessel permit for that vessel that has not been suspended or revoked.

(1) Tier 1 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(1) shall be considered as Tier 1 permits, and permitted vessels are authorized to use the number of traps specified for Tier 1 permits pursuant to Section 180.1(c), Title 14.

(2) Tier 2 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(2) shall be considered as Tier 2 permits, and permitted vessels are authorized to use the number of traps specified for Tier 2 permits pursuant to Section 180.1(c), Title 14. Permitted vessels with Tier 2 permits may not exceed a maximum of 5000 pounds of spot prawns landed in any permit year. The revenue from any landings in excess of 5000 pounds in any permit year shall be forfeited to the Department.

(3) Tier 3 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(3) shall be considered as Tier 3 permits, and permitted vessels are authorized to use the number of traps specified for Tier 3 permits pursuant to Section 180.1(c), Title 14. Tier 3 permits shall also be known as trawl conversion permits.

(c) Initial Issuance Criteria. A spot prawn trap vessel permit for a specific tier shall be issued only to the following persons for use on qualifying vessels:

(1) Tier 1 Permits. A person who is the owner of a commercial fishing vessel that has been registered with the Department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the Department pursuant to Section 8046 of the Fish and Game Code, and who has satisfied at least one of the following minimum vessel-based landing requirements:

(A) at least 20 landings of spot prawns, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(B) at least 2,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(C) at least 10,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1998 and 1999.

(2) Tier 2 Permits.

(A) A person who is the owner of a commercial fishing vessel that has been registered with the Department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before

January 1, 1999, as documented by landing receipts that were delivered to the Department pursuant to Section 8046 of the Fish and Game Code, and who does not satisfy any of the minimum landing requirements in subsection (c)(1) and has satisfied at least one of the following minimum vessel-based landing requirements:

1. at least 10 landings of spot prawns, utilizing traps, in calendar year 1998;

2. at least 1,000 pounds of spot prawns landed, utilizing traps, in calendar year 1998.

(B) Any individual, who has been licensed as a California commercial fisherman for at least 20 years, and who has participated in the commercial spot prawn trap fishery for at least one of those years, and who has made at least 20 landings of spot prawns, using traps, totaling at least 10,000 pounds in one of those years, shall be issued a Tier 2 permit.

(3) Tier 3 Permits. Prawn points will be used to determine eligibility for initial issuance of Tier 3 permits. Any person who is the owner of a commercial fishing vessel that has been registered with the Department pursuant to Section 7881 of the Fish and Game Code between 1994 and 2001 will receive points based on spot prawn landings made utilizing trawl gear.

(A) Points will be awarded to a vessel based on landing history between January 1, 1994 through December 31, 2001 as documented by fish landing receipts that were submitted to the Department pursuant to Section 8046 of the Fish and Game Code in the vessel's name and commercial boat registration number as follows:

1. One hundred prawn points will be earned for each calendar year in which the vessel made a landing of spot prawn with trawl gear between 1994 and 2001.

2. One prawn point will be earned for every 500 pounds of spot prawn the vessel landed with trawl gear between 1994 and 2001; and

3. One prawn point will be earned for each landing of spot prawn a vessel made with trawl gear between 1994 and 2001;

(B) A vessel must have in excess of 1,000 prawn points to qualify for initial issuance of a Tier 3 permit.

(d) Capacity Goal. The Commission has determined that the spot prawn trap fishery capacity goal for Tier 1 and Tier 3 permits combined shall be 17. The Commission has determined that the spot prawn trap fishery capacity goal for Tier 2 permits shall be 0.

(e) Application Deadline for Initial Issuance of Spot Prawn Trap Vessel Permits.

(1) Tier 1 and Tier 2 Permits. All applications and permit fees for initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits must be received by the Department or, if mailed, must be postmarked no later than June 30, 2002. Applications for initial issuance of a spot prawn trap vessel permit received from July 1 through July 31, 2002 shall be considered late and will be assessed a late fee. Applications and monies due for the initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits not received or, if mailed, not postmarked, by July 31, 2002 shall be returned to the applicant unissued.

(2) Tier 3 Permits. All applications (FG 1424 (new, 8/04) incorporated by reference herein) and permit fees for initial issuance of Tier 3 spot prawn trap vessel permits must be received by the Department or, if mailed, must be postmarked no later than February 28, 2005. Applications for

initial issuance of Tier 3 spot prawn trap vessel permits received from March 1 through March 31, 2005 shall be considered late and will be assessed a late fee pursuant to subsection (n). Applications and monies due for initial issuance of Tier 3 spot prawn trap vessel permits not received or, if mailed, not postmarked, by March 31, 2005 shall be returned to the applicant unissued.

(f) Minimum Landing Requirements for Spot Prawn Trap Vessel Permit Renewal. No minimum landings of prawns shall be required to be eligible for renewal of a spot prawn trap vessel permit.

(g) Annual Spot Prawn Trap Vessel Permit Renewal. Applications (FG 1422 (11/05)) incorporated by reference herein for renewal of a spot prawn trap vessel permit shall be received by the Department, or, if mailed, postmarked, by April 30 of each year. Applications for a spot prawn trap vessel permit received from May 1 to May 31 will be assessed a late fee pursuant to subsection (n). Spot prawn trap vessel permit renewals received after May 31, or if mailed, postmarked after May 31, shall become expired, shall be returned unissued to the applicant, and shall no longer be eligible for renewal in subsequent years.

(h) Presence of Owner on Vessel. An owner of the vessel to which the spot prawn trap vessel permit has been issued must be on the vessel when spot prawns are being taken or landed, except that one additional operator may be designated during a license year by informing the Department in writing with a letter sent to Department of Fish and Game, Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940.

(i) Appeal for Reinstatement of an Expired Spot Prawn Trap Vessel Permit. Any applicant who is denied issuance of a spot prawn trap vessel permit for failure to submit an application prior to the application deadline may appeal to the Department in writing. The appeal for reinstatement of an expired spot prawn trap vessel permit shall be received by the Department or, if mailed, postmarked on or before March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit.

(j) Revocation of Permit.

A spot prawn trap vessel permit shall be revoked if the permittee fails to:

(1) renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code; or

(2) submits false information for the purposes of obtaining a spot prawn trap vessel permit.

(k) Transfer of a Spot Prawn Trap Vessel Permit to Another Vessel.

A transfer of a spot prawn trap vessel permit may be approved for use on a replacement vessel only if all of the following criteria are met:

(1) In the form of a notarized letter, the owner of the vessel which is issued a permit shall submit an application for transfer of a Spot Prawn Trap Vessel Permit to the Department.

(2) The vessel owner pays the nonrefundable transfer fee specified in subsection (n).

(3) Unless the vessel was lost, stolen, or destroyed, a permit may not be transferred more than once during any 12-month period.

(4) The spot prawn trap vessel permit for the permitted vessel is current.

(5) The permitted vessel owner has written authority from the legal owner and/or partners, or mortgagor, of the vessel, to which the permit shall be transferred, to transfer the spot prawn trap vessel permit from the permitted vessel.

- (l) Change of Ownership of a Spot Prawn Trap Vessel Permit.
- (1) Tier 2 spot prawn trap vessel permits shall not be transferred to another person. Tier 2 permits shall become null and void upon death of the permit holder.
- (2) All Tier 1 spot prawn trap vessel permits shall be transferable to another person, but not more than once within any 3-year period, and not before April 1, 2005. Upon the death of the permittee, transfer of a Tier 1 spot prawn vessel permit may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.
- (3) Tier 3 spot prawn trap vessel permits shall not be transferred to another person. Tier 3 permits shall become null and void upon death of the permit holder.
- (4) A change of ownership of a Tier 1 spot prawn trap vessel permit to another person may be approved only if the vessel owner submits a written request for change of ownership to the Department and pays a non-refundable change of ownership fee. Thereafter, upon notice to the Department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:
  - (A) the person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code,
  - (B) the person is the owner of a commercial fishing vessel that has been registered with the Department pursuant to Section 7881 of the Fish and Game Code. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.
- (5) Notwithstanding the transfer of ownership provisions in subsection (l) for Tier 1, upon the death of a spot prawn trap vessel Tier 1 permittee the estate may apply to the Department to transfer that permit to the estate. The application for transfer shall be received by the Department within one year of the death of the permittee.
- (m) Appeals.
  - (1) Any applicant who is denied initial issuance of a spot prawn trap vessel Tier 1 or Tier 2 permit for any reason may appeal that denial to the Department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31, 2003. Any applicant who is denied initial issuance of a Tier 3 spot prawn trap vessel permit for any reason may appeal that denial to the Department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than September 30, 2005. The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission within 60 days of the date of the Department's decision.
  - (2) Any applicant who is denied renewal of a spot prawn trap vessel permit may appeal the denial to the Department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit.

The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission within 60 days of the date of the Department's decision.

- (3) Any applicant who is denied transfer of a spot prawn trap vessel permit may appeal the denial to the Department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission within 60 days of the date of the Department's decision.
- (n) Fees.
  - (1) Tier 3 Initial Issuance Fee. The Department shall charge a fee for each Tier 3 spot prawn trap vessel permit of \$1,015.00.
  - (2) Annual Renewal Fee. The Department shall charge an annual fee for each Tier 1 and Tier 2 spot prawn trap vessel permit of \$266.50. The Department shall charge an annual renewal fee for each Tier 3 spot prawn trap vessel permit of \$1,066.25.
  - (3) Vessel Transfer Fee. The Department shall charge a nonrefundable fee of \$200 for each vessel transfer.
  - (4) Change of Ownership Fee. The Department shall charge a non-refundable fee of fifty dollars (\$50) for each change of ownership of the spot prawn trap vessel permit.
  - (5) Initial Issuance Late Fees. The Department shall charge a non-refundable late fee of \$50 if an application for initial issuance of a Tier 1 or Tier 2 spot prawn trap vessel permit is received from July 1 to July 31, 2002. The Department shall charge a nonrefundable late fee of \$50 if an application for initial issuance of a Tier 3 spot prawn trap vessel permit is received from March 1 to March 31, 2005.
  - (6) Renewal Late Fee. The Department shall charge a nonrefundable late fee of fifty dollars (\$50) if an application for renewal of a spot prawn trap vessel permit is received from May 1 to May 31.

### Market Squid

Squid vessel permit holders are also subject to the provisions of §190, Title 14, of the CCR.

### Title 14 Excerpts

#### §53.00. Purpose and Scope.

- (a) This article implements the Market Squid Fishery Management Plan (Market Squid FMP) as adopted and amended by the California Fish and Game Commission (Commission), consistent with the requirements of Part 1.7, commencing with Section 7050, and Article 9.7 of Chapter 2 of Part 3 of Division 6 of the Fish and Game Code (commencing with Section 8420). Regulations contained in Section 53.00 et seq. are consistent with the goals, objectives and procedures of the Market Squid FMP and applicable federal regulations for coastal pelagic species and the federal Coastal Pelagic Species Fishery Management Plan. These regulations, in combination with other applicable provisions of the Fish and Game Code, Title 14 of the California Code of Regulations, and federal regulations for coastal pelagic species, govern management and regulation of market squid stocks and fisheries.
- (b) A regulation implementing this fishery management plan that is applicable to both sport and commercial fisheries is found in this Article.

Regulations adopted by the Commission specific to recreational take and use of market squid are included with ocean sport fishing regulations in Chapter 4, beginning with Section 27.00, Title 14, CCR. Regulations specific to commercial fishing for market squid are included in Chapter 6, beginning with Section 149, Title 14, CCR.

- (c) Pursuant to Fish and Game Code Section 8429.7, Fish and Game Code sections 8420.5 to 8423.5, inclusive, and sections 8426 and 8427 are made inoperative.
- (d) Pursuant to Fish and Game Code Section 7071, Fish and Game Code Section 7852.2 is made inoperative as it applies to squid fishery permits.

#### §53.01. Definitions.

- (a) Brail gear, dip nets or scoop nets means any net attached to a rigid frame operated by hand or mechanical device deployed from the vessel to scoop fish or invertebrates.
- (b) Daily trip limit means a routine management measure which may be used to limit take of squid on a per-vessel basis within a calendar day.
- (c) Drum seine means a purse seine net which is stored, deployed and retrieved with the aid of a mechanized drum (reel) mounted on the stern of the vessel.
- (d) Egg escapement means the number or proportion of a female squid's lifetime supply of eggs that she is able to deposit, on average, before being taken in the fishery.
- (e) Egg escapement method means a management tool which may be used to determine whether the fleet is fishing above or below a predetermined sustainable level of exploitation. The method requires establishing a threshold value to ensure that an adequate number of eggs are deposited prior to harvest.
- (f) Fishing year or fishing season under the Market Squid FMP means the period April 1 through March 31.
- (g) Fishery Control Rules means specific management strategies such as seasonal catch limits, daily trip limits, area closures, time closures, and sustainable levels of egg escapement which provide for a sustainable market squid fishery.
- (h) Fleet capacity goal means an optimal number of vessels where the number of vessels matches the available squid resource.
- (i) Forage means the role of market squid in the food chain as a critical source of food for higher predators, including birds, fish and marine mammals.
- (j) Lampara means a rectangular net constructed with graduated mesh sizes, a definite bunt (bag), and fitted with floats. It is laid out by the fishing vessel in a circle and closed at least partially on the bottom by pulling the leadline in advance of the float line.
- (k) Light boat means a vessel engaged in the commercial taking or attempting to take market squid which uses bright lights to aggregate squid for commercial purposes including live bait.
- (l) Market squid means *Loligo opalescens*.
- (m) Market Squid Fishery Management Plan (Market Squid FMP) means Chapters 1 through 5 of the Market Squid Fishery Management Plan approved by the Commission on August 27, 2004, hereby incorporated by reference.
- (n) National Marine Fisheries Service, NMFS or NOAA Fisheries means the federal fisheries management agency which is contained in the United States Department of Commerce.
- (o) Overfished is defined at Fish and Game Code



Section 97.5, and in the Market Squid FMP also means a condition that may exist when either the egg escapement threshold is not met, or catches of squid exceed any specified allowable level.

- (p) Overfishing is defined at Fish and Game Code Section 98, and in the Market Squid FMP also may mean that harvests of squid are occurring at times when either the egg escapement threshold is not being met, or catches are exceeding specified allowable levels. These catches may not be sustainable.
- (q) PFMC or Council means the Pacific Fishery Management Council established pursuant to the Magnuson-Stevens Fishery Conservation and Management Act.
- (r) Point of concern means one or more of the following conditions affecting market squid that, if found or are expected to exist, may trigger the application or adjustment of one or more management measures by the Commission:
  - (1) Catch is projected to significantly exceed the current seasonal catch limitation.
  - (2) Any adverse or significant change in the biological characteristics of the market squid (age composition, size composition, age at maturity, or recruitment) is discovered.
  - (3) An overfished condition exists or is imminent (defined as when the egg-escapement method threshold is not realized in two consecutive years).
  - (4) Any adverse or significant change in the availability of market squid as forage or in the status of a dependent species is discovered.
  - (5) An error in data or a change to an indicator of stock status is detected that requires adjustment to fishery control rules to ensure sustainable resource management.
  - (5) An error in data or a change to an indicator of stock status is detected that requires adjustment to fishery control rules to ensure sustainable resource management.
- (s) Points of concern process means a process authorizing the Commission to apply or adjust fishery management measures at any time during the year based on the confirmation of the existence of one or more resource-based points of concern identified in a fishery management plan pursuant subsection 50.03 (a), Title 14, CCR.
- (t) Purse seine means a rectangular net constructed with uniform mesh sizes, without a prominent bunt (bag), and fitted with floats. It is laid out with the end attached to a skiff while the deploying vessel encircles the squid. The end of the net is then brought up to the deploying vessel and is closed on the bottom by pulling a purse line (draw string) threaded through rings along the leadline, preventing the catch from escaping.
- (u) Round haul vessels mean those that employ the use of lampara, purse seine, and drum seine net gear to commercially harvest squid.
- (v) Seasonal catch limitation means an amount of allowable catch which may be taken within a designated geographic area in a fishing season, specified in short tons and excluding discard mortality. The attainment (or expected attainment) of this limit will cause closure of the directed commercial fishery as specified in regulation.
- (w) Tons means short tons, and is the standard unit of weight for purposes of describing catches and limits for the market squid fishery, notwithstanding subsection 50.00 (c), Title 14, CCR.
- (x) Vessel capacity means the gross registered tonnage, as listed on a federal Coastal Pelagic Species permit or calculated from length, breadth and depth measurements provided on United States

Coast Guard documentation papers.

- (y) Weekend closures mean a routine management measure which may be used to prohibit take of market squid during certain days of a week.
- (z) Definitions contained in Chapter 1, and Article 1 of Chapter 5.5, of Subdivision 1, Division 1, Title 14, CCR, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code apply to the market squid fishery in addition to definitions of this Section.

### **§53.02. Process and Timing.**

- (a) Management of market squid stocks will conform to the goals, objectives, criteria, procedures, and Fishery Control Rule guidelines of the Market Squid FMP, and other applicable state and federal laws and regulations.
- (b) Periodic monitoring and assessment of squid fisheries will be conducted, and, at a minimum, will include the collection and review of reported catches. The Department will provide management recommendations to the Commission as needed, and in-season if a need is identified.
- (c) The director may establish and appoint members to an advisory committee to assist the Department with development and review of fishery assessments, management options and proposals, and plan amendments.
- (d) Management measures and actions may be developed, considered, and adopted in compliance with the Administrative Procedure Act and implemented at any time of year to achieve management plan goals and objectives, and may apply to any or all management areas, or portions of management areas at the discretion of the Commission.

### **§53.03. Market Squid Fishery Management Plan (Market Squid FMP) Project.**

- (a) The Department's Recommended Proposed Project in the Market Squid FMP involves a combination of limitations on total harvest, regulation on the use of squid fishing gear (including lights), use of time closures to allow for periods of uninterrupted spawning, restricted access and other limits on the commercial fleet capacity, mechanisms to allow for adequate squid escapement, and area closures designed to minimize impact to sensitive non-target species and habitat. These management measures described in the Market Squid FMP will be utilized in managing the squid fishery toward meeting goals and objectives of the Market Squid FMP.
- (b) Other management measures as described in the Market Squid FMP, including but not limited to vessel trip limits, squid replenishment areas, seasonal closures, and marine protected areas may be used as needed to achieve the goals and objectives of the Market Squid FMP.
- (c) A fishery management measure may be adopted by the Commission instead of, or in addition to, measures included in the adopted Market Squid FMP Project where specified in statute or state or federal regulation.
- (d) Consistent with the goals of the Restricted Access program, the Commission established a sixth permit class for Non-Transferable Market Squid Light Boat Permits in addition to the original five permit classes and an experimental permit class identified in the discussion of the program in the Market Squid Fishery Plan.

### **§149. Commercial Taking of Market Squid**

- (a) Fishing days. North of a westerly extension of the United States - Republic of Mexico boundary line, market squid may not be taken for commercial purposes between 1200 hours (noon) on Friday and 1200 hours (noon) on Sunday of each week. This regulation applies to vessels catching squid or attracting squid with lights. This regulation does not apply to vessels taking squid for live bait purposes only or to fishing activities which result in squid landings taken pursuant to subsection (g) of this Section. Squid taken for live bait purposes pursuant to this Section shall only be sold as live bait.
- (b) Records. Pursuant to Section 190 of these regulations, any person who possesses a valid Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit shall complete and submit an accurate record of his/her squid fishing, lighting, or brailing activities on a form (Market Squid Vessel Logbook - DFG 149a (9/01), or Market Squid Light/Brail Boat Logbook - DFG 149b (10/05), which are located in Appendix A of Subdivision 1 of Division 1 of Title 14, CCR) provided by the Department, as appropriate to the type of fishing activity. Logbook records shall be transmitted to the Department on or before the 10th day of each month following the month that fishing activity occurred.
- (c) Maximum Wattage. Each vessel fishing for squid or lighting for squid shall utilize a total of no more than 30,000 watts of lights to attract squid at any time.
- (d) Light Shields. Each vessel fishing for squid or lighting for squid will reduce the light scatter of its fishing operations by shielding the entire filament of each light used to attract squid and orienting the illumination directly downward, or providing for the illumination to be completely below the surface of the water. The lower edges of the shields shall be parallel to the deck of the vessel.
- (e) Seasonal Catch Limitation. For the period from April 1 through March 31 of the following year, a total of not more than 118,000 short tons of market squid may be taken statewide by vessels permitted under Section 149.1 or 149.3, Title 14, CCR, with the fishery closure implemented as follows:
  - (1) The Department shall estimate, from the current trend in landings, when the market squid catch limit will be reached, and will publicly announce the effective date of closure of the directed fishery on VHF/channel 16 between the hours of 10:00 p.m. and 12:00 a.m. (midnight). It shall be the responsibility of all operators of permitted market squid vessels to monitor VHF/channel 16 to determine when the catch limit is expected to be reached and the fishery closed. Any announcement issued or made by the Department on VHF/channel 16 shall constitute official notice.
  - (2) Whenever the market squid catch limit has been reached, market squid may be taken for commercial purposes through March 31 only if the amount taken does not exceed two tons landed in a calendar day or if the squid taken is used for live bait only.
- (f) Closed Times and Areas for Seabirds. Market squid may not be taken for commercial purposes utilizing attracting lights in all waters of the Gulf of the Farallones National Marine Sanctuary. Boundaries of the Sanctuary are defined as those

in effect on August 27, 2004, pursuant to Title 15, Code of Federal Regulations (CFR), Part 922, Subpart H. This regulation also applies to vessels pursuing squid for live bait purposes.

- (g) Incidental Allowance. It is unlawful to take, land, or possess in excess of two tons of squid per trip or per calendar day except as authorized under a Market Squid Vessel Permit or a Market Squid Brail Permit as described in subsection 149.1(b) or Section 149.3, or for purposes of live bait only.
- (h) Forfeiture. Squid landed or possessed in violation of the allowance specified in subsection (g) above shall be forfeited to the Department by the signing of an official release of property form. The squid shall be sold or disposed of in a manner to be determined by the Department. The proceeds from all sales shall be paid into the Fish and Game Preservation Fund.
- (i) Use of Lights to Aggregate Squid. It is unlawful to attract squid by light except as authorized under permits described in subsection 149.1(b) or Section 149.3. This regulation does not apply to seine skiffs of a permitted vessel, or to vessels pursuing squid for live bait purposes only.
- (j) Citations for violations of this Section may be issued to the vessel operator, crewmembers, and/or the holder of a market squid permit issued pursuant to Section 149.1 or 149.3, Title 14, CCR.
- (k) Exemption from Tidal Invertebrate Permit. A commercial market squid vessel or light boat operating under the provisions of a commercial market squid permit is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of Section 123.

#### **§149.1. Market Squid Fishery Restricted Access Program.**

- (a) Permit Required. On and after April 1, 2005, no person shall take, land, or attract squid by light for commercial purposes, except as provided in subsection 149(g), unless the owner of that vessel has a valid market squid permit for use on that vessel that has not been suspended or revoked.
- (b) Classification of Permits and Permit Authorization.
  - (1) A Market Squid Vessel Permit authorizes the use of round haul gear, including purse seine, drum seine and lampara nets for commercial harvest. Use of brail gear, including dip and scoop nets, is also authorized. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest. No other gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes. Market Squid Vessel Permits are designated as either transferable or non-transferable as described in subsection (o) below.
  - (2) A Market Squid Brail Permit authorizes the use of brail gear including dip and scoop nets to take market squid for commercial purposes. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest. No other gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes. Market Squid Brail Permits are designated as either transferable or non-transferable as described in subsection (o) below.
  - (3) A Market Squid Light Boat Permit authorizes only the use of lights as specified in regulation to aggregate squid for purposes of commercial harvest. No other gear is authorized under this permit to take or assist in the taking of market

squid for commercial purposes. Market Squid Light Boat Permits are designated as either transferable or non-transferable as described in subsection (o) below.

- (4) Only one market squid permit, regardless of the class of permit as described in subsections (b)(1), (2), and (3) above, may be issued per owner per vessel.
- (c) Initial Issuance Criteria. Any person who is the registered owner of the vessel must provide current proof of vessel ownership at the time of application. Permits as described in subsection (b) shall be issued only to the following persons, partnerships or corporations based on qualifying criteria described in this subsection. Transferable permits shall be issued to owners where the vessel meets the specified initial issuance criteria for the class of permit. Non-transferable permits shall be issued only to individuals that meet the specified initial issuance criteria for the class of permit. During initial permit issuance, a permit must be placed only on a vessel that was licensed with a valid Market Squid Vessel Permit or a Market Squid Light Boat Owner's Permit in the 2004-05 permit year, and which must also be the vessel upon which the qualifying catches were made.
  - (1) Market Squid Vessel Permit - Transferable.
    - (A) A Transferable Market Squid Vessel Permit may be issued to an individual, partnership or corporation that is the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004-05 permit year that has been registered with the Department pursuant to Fish and Game Code Section 7881 at the time of application, and
    - (B) the Market Squid Vessel Permit has not been suspended or revoked, and
    - (C) the vessel must have made at least 50 landings of market squid from January 1, 2000 through March 31, 2003 as documented by fish landing receipts submitted to the Department in the vessel's name and identification number pursuant to Fish and Game Code Section 8046.
  - (D) Upon issuance of a transferable Market Squid Vessel Permit, additional squid fishery catch history associated with the vessel may not be used by any individual, partnership or corporation toward qualification for additional permits of any class.
  - (2) Market Squid Vessel Permit - Non-Transferable.
    - (A) A Non-Transferable Market Squid Vessel Permit may be issued to an individual that is the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004-05 permit year that has been registered with the Department pursuant to Fish and Game Code Section 7881 at the time of application, and
    - (B) the Market Squid Vessel Permit has not been suspended or revoked, and
    - (C) pursuant to Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and
    - (D) the individual has made at least 33 landings of market squid from the vessel licensed with a Market Squid Vessel Permit for the 2004-05 permit year as documented by fish landing receipts submitted to the Department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, prior to August 27, 2004. Only receipts that demonstrate catch aboard a vessel with a Market Squid Vessel Permit for the 2004-05 permit year that does not already qualify for

issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are valid for consideration.

- (E) The Department shall separately identify Non-Transferable Market Squid Vessel Permits issued under this section and those permits shall become null and void upon the death of the permit holder.
- (3) Market Squid Brail Permit - Transferable.
  - (A) A Transferable Market Squid Brail Permit may be issued to an individual, partnership, or corporation that is the owner of a commercial fishing vessel that has been registered with the Department pursuant to Fish and Game Code Section 7881 at the time of application, and
  - (B) have been issued a Market Squid Vessel Permit for the 2004-05 permit year for that vessel that has not been suspended or revoked, and
  - (C) the vessel must have made at least 10 landings of market squid with brail gear from January 1, 2000 through March 31, 2003 as documented by fish landing receipts submitted to the Department in the vessel's name and identification number pursuant to Fish and Game Code Section 8046.
  - (D) Upon issuance of a transferable Market Squid Brail Permit, additional squid fishery catch history associated with the vessel may not be used by any individual, partnership or corporation toward qualification for additional permits of any class.
- (4) Market Squid Brail Permit - Non-Transferable.
  - (A) A Non-Transferable Market Squid Brail Permit may be issued to an individual that is the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004-05 permit year that has been registered with the Department pursuant to Fish and Game Code Section 7881 at the time of application, and
  - (B) the Market Squid Vessel Permit has not been suspended or revoked, and
  - (C) pursuant to Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and
  - (D) the individual has made at least 10 landings of market squid with brail gear from the vessel with a Market Squid Vessel Permit for the 2004-05 permit year as documented by fish landing receipts submitted to the Department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, during any one permit year (April 1 through March 31 of the following year) from January 1, 2000 through March 31, 2003. Only receipts that demonstrate catch from a vessel with a Market Squid Vessel Permit for the 2004-05 permit year that does not already qualify for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are valid for consideration.
  - (E) The Department shall separately identify Non-Transferable Market Squid Brail Permits issued under this section and those permits shall become null and void upon the death of the permit holder.
- (5) Market Squid Light Boat Permit - Transferable.
  - (A) A Transferable Market Squid Light Boat Permit may be issued to an individual, partnership or

- corporation that is the owner of a commercial fishing vessel that has been registered with the Department pursuant to Fish and Game Code Section 7881 at the time of application, and
- (B) the individual, partnership or corporation must have been issued a Market Squid Vessel Permit or a Squid Light Boat Owner's Permit for the 2004-05 permit year for use on that vessel that has not been suspended or revoked, and
- (C) the individual, partnership or corporation must have submitted to the Department, pursuant to subsection 149(b) and Section 190, Title 14, CCR, at least one market squid light boat logbook form (DFG 149b) with fishing activity dated on or prior to December 31, 2000 for that vessel.
- (D) Upon issuance of a transferable Market Squid Light Boat Permit, additional squid fishery light boat activity associated with the vessel may not be used by any individual, partnership or corporation toward qualification for additional permits of any class.
- (6) Market Squid Light Boat Permit ~ Non-Transferable.
- (A) A Non-Transferable Market Squid Light Boat Permit may be issued to an individual that is the owner of a commercial fishing vessel that has been registered with the Department pursuant to Fish and Game Code Section 7881 at the time of application, and
- (B) the individual must have been issued a Market Squid Vessel Permit or a Squid Light Boat Owners Permit for the 2004-05 permit year for use on that vessel that has not been suspended or revoked, and
- (C) pursuant to Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and
- (D) the individual must have submitted to the Department, pursuant to subsection 149(b) and Section 190, Title 14, CCR, at least one market squid light boat logbook form (DFG 149b) with fishing activity dated from January 1, 2001 through August 27, 2004 for that vessel. Only logbook forms from a vessel with a Market Squid Vessel Permit or a Squid Light Boat Owners Permit for the 2004-05 permit year that has not already qualified for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are valid for consideration.
- (E) The Department shall separately identify Non-Transferable Market Squid Light Boat Permits issued under this section and those permits shall become null and void upon the death of the permit holder.
- (7) Non-Transferable Market Squid Vessel Permits, Non-Transferable Market Squid Brail Permits, and Non-Transferable Market Squid Light Boat Permits may only be issued to individuals, and shall not be issued to partnerships or corporations, although the permit may be placed on a vessel which is owned by a partnership or corporation.
- (d) Application Deadlines for Initial Permit Issuance.
- (1) All applications [FG 1315 (Rev. 11/05), incorporated by reference herein] and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Transferable Market Squid Light Boat Permits must be received by

- the Department, or, if mailed, postmarked on or before June 30, 2005. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Transferable Market Squid Light Boat Permits received by the Department, or, if mailed, postmarked from July 1 through July 31, 2005 will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Transferable Market Squid Light Boat Permits received by the Department or postmarked after July 31, 2005 will be denied by the Department and returned to the applicant.
- (2) All applications [FG 1319 (New 12/06), incorporated by reference herein] and permit fees for initial issuance of Non-Transferable Market Squid Light Boat Permits must be received by the Department at the address specified on the application, or, if mailed, postmarked on or before June 30, 2007. Applications and permit fees for initial issuance of Non-Transferable Market Squid Light Boat Permits received by the Department, or, if mailed, postmarked from July 1 through July 31, 2007 will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for initial issuance of Non-Transferable Market Squid Light Boat Permits received by the Department or postmarked after July 31, 2007 will be denied by the Department and returned to the applicant.
- (e) Initial Issuance Appeals. Any applicant who is denied initial issuance of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit by the Department pursuant to subsection (c) may appeal that denial to the Commission in writing, describing the basis for the appeal. The appeal shall be received by the Commission or, if mailed, postmarked within 60 days of the Department's denial.
- (f) Annual Permit Renewal.
- (1) On and after April 1, 2006, Market Squid Vessel Permits, Market Squid Brail Permits and Transferable Market Squid Light Boat Permits will be issued annually by the Department only to those persons who have held the same class of permit in the immediately preceding permit year.
- (2) On and after April 1, 2008, Non-Transferable Market Squid Light Boat Permits will be issued annually by the Department only to those persons who held such permits in the immediately preceding permit year.
- (3) Upon the death of the individual to whom a Non-Transferable Market Squid Vessel Permit, Non-Transferable Market Squid Brail Permit, or Non-Transferable Market Squid Light Boat Permit is issued, the permit shall be considered null and void and permit renewal criteria specified in this subsection shall not apply.
- (g) Application Deadlines for Annual Permit Renewal. All applications [FG 1315 (Rev. 11/05), incorporated by reference herein], and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the Department at the address specified on the application, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the Department, or, if mailed, postmarked from May 1 through May 31 of each permit year will be assessed a

- \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the Department or postmarked after May 31 of each permit year will be denied by the Department and returned to the applicant.
- (h) Renewal Appeals. Any applicant who is denied renewal of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may appeal the denial to the Department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit. The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission within 60 days of the date of the Department's written decision.
- (i) Permit, Transfer and Upgrade Fees.
- (1) The Department shall charge an annual fee for a permit of each permit class as follows:
- (A) Market Squid Vessel Permit ~ Transferable ~ \$2,101.25.
- (B) Market Squid Vessel Permit ~ Non-Transferable ~ \$1,050.50.
- (C) Market Squid Brail Permit ~ Transferable ~ \$2,101.25.
- (D) Market Squid Brail Permit ~ Non-Transferable ~ \$1,050.50.
- (E) Market Squid Light Boat Permit ~ Transferable ~ \$630.25.
- (F) Market Squid Light Boat Permit ~ Non-Transferable ~ see Section 699, Title 14, CCR, for the permit fee.
- (2) The Department shall charge a non-refundable fee of five hundred dollars (\$500) for each permit transfer. If more than one permit is involved in the transfer based on provisions defined in subsection (o), a total of five hundred dollars (\$500) dollars shall be charged for the transaction.
- (3) The Department shall charge a non-refundable fee of one thousand five hundred dollars (\$1,500) for each Market Squid Brail Permit Upgrade based on provisions defined in subsection (q).
- (j) Permit Revocation, Suspension or Cancellation.
- (1) Pursuant to Fish and Game Code Section 1052(b), a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit shall be revoked if false information is provided by the permittee to obtain or maintain the permit.
- (2) A Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may be suspended, revoked, or cancelled by the Commission upon conviction of a violation of regulations contained in Section 149, Title 14, CCR, or violation of the terms and conditions of the permit.
- (k) Dissolution of Partnership or Corporation. If a transferable Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by a bona fide partnership or corporation which becomes dissolved, the partnership or corporation shall notify the Department of the name of the partner or shareholder who is the successor permit holder and the Department shall reissue the permit to that partner or shareholder. Change of vessel ownership provisions defined in subsection



- (l) and transfer fees in subsection (i)(2) apply.
- (l) Change of Vessel Ownership.
- (1) If a transferable Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by an individual or by a bona fide partnership or corporation, and the individual, bona fide partnership, or corporation transfers the title of ownership of the vessel to another entity, the original entity to which the permit is issued must notify the Department of the change in ownership, and submit a non-refundable transfer fee of five hundred dollars (\$500).
- (2) Upon payment of fees, and surrender to the Department of the original permit or permits, the Department shall issue the applicable permit to the new owner of the vessel that is valid for the remainder of the fishing season. Gross tonnage endorsement provisions defined in subsection (n) below shall apply.
- (3) Non-Transferable Market Squid Vessel Permits, Non-Transferable Market Squid Brail Permits and Non-Transferable Market Squid Light Boat Permits which are issued to individuals shall not be transferred to a new owner. Sale or transfer of ownership of a vessel that is authorized to fish under a non-transferable market squid permit shall render the permit null and void.
- (m) Capacity Goals.
- (1) The capacity goal for transferable and non-transferable Market Squid Vessel Permits is 55.
- (2) The capacity goal for transferable and non-transferable Market Squid Brail Permits is 18.
- (3) The capacity goal for transferable and non-transferable Market Squid Light Boat Permits is 34.
- (4) Should the number of Market Squid Vessel Permits, Market Squid Brail Permits, or Market Squid Light Boat Permits issued by the Department fall below the capacity goal for that permit class, the Commission may prescribe criteria for issuance of additional permits of that class, which may include but is not limited to previous issuance of market squid vessel, brail or light boat permits, market squid catch or market squid logbook histories.
- (n) Gross Tonnage Endorsement. Each Market Squid Vessel Permit or Market Squid Brail Permit shall be endorsed with the gross tonnage at the time of initial issuance. Any vessel owner transferring a Market Squid Vessel Permit or Market Squid Brail Permit shall also provide gross tonnage information for the replacement vessel as described below.
- (1) The gross tonnage shall be determined as follows:
- (A) If the owner of the vessel holds a Federal Coastal Pelagic Species Permit issued by the National Marine Fisheries Service for that vessel, the owner of the vessel shall submit a copy of the vessel owner's current valid Federal Coastal Pelagic Species Permit with the vessel's endorsed gross tonnage.
- (B) If the owner of the vessel does not hold a Federal Coastal Pelagic Species Permit for the vessel, the gross tonnage will be determined by multiplying the length (L), breadth (B), and depth (D) of the vessel by 0.0067. Records of length, breadth, and depth used for determining gross tonnage will be those recorded on the vessel's United States Coast Guard documentation paper.
- (2) The gross tonnage endorsement will remain in effect for the lifetime of each permit, regardless of the gross tonnage of a vessel to which it was transferred.
- (3) In cases where a permit is transferred to a vessel

- with a smaller gross tonnage, the original gross tonnage endorsement will remain, and excess gross tonnage cannot be split out from the original permit endorsement for any purpose.
- (4) In cases where two or more permits are transferred to a replacement vessel pursuant to guidelines in subsection (o), the replacement vessel shall be issued a transferable permit which reflects a gross tonnage endorsement which is recorded as either the sum of the gross tonnage endorsements from the original vessels, or the gross tonnage of the replacement vessel, whichever of the two values is less.
- (o) Transfer of Permits to Replacement Vessels.
- (1) Conditions for permit transferability as defined in this subsection shall provide the mechanism for achieving the capacity goals defined in subsection (m) of this Section over time.
- (2) Definitions of Comparable Capacity.
- (A) For purposes of permit transferability described in this subsection, two vessels are of comparable capacity if the gross tonnage, as defined in subsection (n) of this Section, of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel [the replacement vessel's gross tonnage must be less than (the gross tonnage of the original vessel) plus (0.1 multiplied by the gross tonnage of the original vessel)].
- (B) A replacement vessel shall be considered of comparable capacity in cases of permit transfers where the gross tonnage of the original vessel exceeds the gross tonnage of the replacement vessel by any amount. Gross tonnage endorsement provisions for the replacement vessel defined in subsection (n) shall apply.
- (3) After August 31, 2005 the following conditions for transferability of permits to replacement vessels will be in effect for permits in each class as described:
- (A) The owner of a vessel with a valid Transferable Market Squid Vessel Permit may transfer the permit to another person who is the owner of a replacement commercial fishing vessel of comparable capacity as defined in this subsection.
- (B) If transfer is sought of a Transferable Market Squid Vessel Permit for a replacement commercial fishing vessel which is not of comparable capacity as defined in this subsection, one additional valid Transferable Market Squid Vessel Permit shall be transferred and surrendered to the Department at the time of the transfer. Market Squid Vessel Permit transfers are not authorized in cases where the gross tonnage of the replacement vessel is not of comparable capacity to the sum of the gross tonnages of the two original vessels as defined above.
- (C) A Transferable Market Squid Brail Permit issued to an individual, partnership or corporation may be transferred to another entity who is the owner of a replacement commercial fishing vessel of comparable capacity as defined in this subsection.
- (D) A Transferable Market Squid Light Boat Permit issued to an individual, partnership or corporation may be transferred to another entity who is the owner of a replacement commercial fishing vessel.
- (E) In the event of death of the holder of a Transferable Market Squid Vessel Permit, Transferable Market Squid Brail Permit, or a Transferable Market Squid Light Boat Permit, the estate must apply for transfer of the permit to another entity within one year of the permitholder's death.

- (F) A Non-Transferable Market Squid Vessel Permit or a Non-Transferable Market Squid Brail Permit issued to an individual may not be transferred to another entity, but in the event the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown, the permit may be placed on a replacement vessel of comparable capacity as defined in subsection (m). A Non-Transferable Market Squid Light Boat Permit issued to an individual may not be transferred to another entity, but in the event the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown, the permit may be placed on a replacement vessel. A notarized, written request for transfer must be submitted, along with proof that the permitted vessel is lost, stolen, or destroyed in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire Department investigating the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The Department shall not issue a permit for a replacement vessel pursuant to this subsection if the permitted vessel was reported lost, stolen, destroyed, or damaged for fraudulent purposes.
- (4) The applicant for transfer must be the owner of a replacement commercial fishing vessel that has been registered with the Department pursuant to Fish and Game Code Section 7881 at the time of application.
- (5) A written request for transfer of a market squid permit of any class shall be submitted to the Department by the owner of the replacement vessel in the form of a notarized letter, accompanied by the nonrefundable transfer fee and shall include a copy of the permit or permits which are being considered for transfer, current proof of vessel ownership, and gross tonnage information as described in subsection (n), if applicable.
- (6) Any market squid permit holder intending to transfer a permit shall submit a notarized letter to the Department setting forth the conditions of the sale, and shall specify that the terms of the transfer as documented by the replacement vessel owner are valid and true.
- (7) Upon determining that the applicant is qualified to transfer the permit to a replacement vessel, payment of all fees, and surrender to the Department of the original permit or permits, the Department shall issue the applicable permit to the owner of the replacement vessel that is valid for the remainder of the fishing season. Gross tonnage endorsement provisions defined in subsection (n) above shall apply.
- (8) At the time the permit transfer is complete, vessels previously authorized to fish under conditions of a surrendered permit shall not take or attract squid for commercial purposes unless otherwise authorized in regulation or statute.
- (p) Transfer Appeals. Any applicant who is denied transfer of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may appeal the denial to the Department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked within 60 days of the date of the Department's denial. The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission within 60 days of the date of the Department's written decision.
- (q) Market Squid Brail Permit Upgrade. Purchase

of a Transferable Market Squid Brail Permit by a permittee who holds a Transferable Market Squid Light Boat Permit may occur with surrender of a Transferable Market Squid Light Boat Permit. Non-Transferable Light Boat Permits are not eligible for upgrade.

- (1) An application for upgrade to a Market Squid Brail Permit shall be submitted to the Department by a Transferable Market Squid Light Boat permittee in the form of a notarized letter, and shall include a copy of the permit which is being sought for surrender, current proof of vessel ownership, and gross tonnage information as described in subsection (n).
- (2) Upon determining that the applicant is qualified to upgrade the permit, payment of all permit and upgrade fees, and surrender to the Department of the original permit, the Department shall issue the replacement permit that is valid for the remainder of the fishing season. Gross tonnage endorsement provisions defined in subsection (n) above shall apply.
- (r) Market Squid Brail Permit Upgrade Appeals. Any applicant who is denied upgrade of a Transferable Market Squid Light Boat Permit to a Transferable Market Squid Brail Permit may appeal the denial to the Department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked within 60 days of the date of the Department's denial. The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission within 60 days of the date of the Department's written decision.

### **§149.3 Experimental Market Squid Vessel Permits**

- (a) The Commission may issue 3 Non-Transferable Market Squid Vessel Permits as described in Section 149.1 to any individual for placement on any vessel for purposes of developing a squid fishery in areas previously not utilized for squid production.
- (b) Excepting initial issuance provisions defined in subsection 149.1(c), terms and conditions of Section 149.1 apply in entirety to permits issued pursuant to this Section.
- (c) Individuals issued permits pursuant to this Section are subject to all commercial squid fishing regulations defined in Section 149, Title 14, CCR.
- (d) Market Squid Vessel Permits issued pursuant to this Section may be suspended, revoked, or canceled by the Commission upon conviction of a violation of regulations contained in Section 149, Title 14, CCR, or violation of the terms and conditions of the permit.

### **FGC Excerpts**

#### **§8399.1. Illegal activities relating to the taking of squid in District 10.**

- (a) In District 10, it is unlawful to engage in the following activities:
  - (1) Attract squid by a light displayed from any vessel, except a vessel deploying nets for the take, possession, and landing of squid or from the seine skiff of the vessel deploying nets for the take, possession, and landing of squid.
  - (2) Attract squid by a light displayed from any vessel whose primary purpose is not the deployment, or assisting in the deployment, of nets for the take, possession, and landing of squid.

(3) To encircle any vessel, other than by the seine skiff of a vessel deploying nets for the take, possession, and landing of squid, while that vessel is engaged in the taking of squid.

- (b) For purposes of this section, "seine skiff" means a vessel that is not licensed by the federal government or registered by the Department of Motor Vehicles, that is used to assist a larger federally-licensed or state-registered fishing vessel by assisting in the deployment and retrieval of nets and the landing of fish, and that travels with that larger fishing vessel at all times, that is used solely at the direction of the operator of the larger fishing vessel, and that is owned by the owner of the larger fishing vessel.

#### **§8424. Purchase of Squid; Weighmaster Required.**

- (a) No person shall purchase squid from a vessel or vessels unless that person holds a license issued pursuant to Section 8032 or 8033, employs a certified weighmaster, and the facilities operated by the person are located on a permanent, fixed location.
- (b) Notwithstanding any other provision of law, this section shall not apply to the transfer at sea of squid for live bait in an amount less than 200 pounds in a calendar day.

#### **§8425. Annual Hearings; Commission to Adopt Regulations.**

- (a) On or before December 31, 2002, the Commission, after consideration of the report and recommendations prepared by the Department pursuant to subdivision (c) of Section 8426, and, after public hearings, shall adopt a market squid fishery management plan and regulations to protect the squid resource and manage the squid fishery at a level that sustains healthy squid populations, taking into account the level of fishing effort and ecological factors, including, but not limited to, the species' role in the marine ecosystem and oceanic conditions. The management plan shall be consistent with the requirements of Part 1.7 (commencing with Section 7050). Development of the plan shall be coordinated with the federal Coastal Pelagic Species Fishery Management Plan.
- (b) On and after January 1, 2002, the Commission shall manage the squid fishery in accordance with the requirements of Part 1.7 (commencing with Section 7050).

#### **§8428. Limit on expenditure of funds collected.**

Commencing April 1, 2004, and annually thereafter, the fees for a commercial market squid vessel permit and for a commercial squid light boat owner's permit shall be established by the Commission. The total amount of fees collected pursuant to this section, including any revenue derived from any other appropriate source, as determined and allocated by the Commission, shall not exceed the Department's and the Commission's costs for managing the market squid fishery pursuant to Section 8425. The fees collected pursuant to this article shall be used only for the management of the market squid fishery pursuant to Section 8425.

#### **§8429. Statements to be made under penalty of perjury.**

Any statement made to the Department, orally or in writing, relating to a permit issued under this

article, shall be made under penalty of perjury. The Commission shall revoke the commercial fishing license, the commercial boat registration of any vessel, and, if applicable, any licenses issued pursuant to Section 8032, 8033, or 8034 that are held by any person submitting material false statements, as determined by the Commission, for the purpose of obtaining a commercial market squid vessel permit or a commercial light boat owner's permit.

#### **§8429.5. Authority of director.**

Notwithstanding any other provision of law, nothing in this article shall prohibit or otherwise limit the authority of the director or the Commission under any other law.

#### **§8757. Use in Districts 19, 19B, and 20; Possession of Dead Fish**

Notwithstanding Section 8661, and in addition to Sections 8754, 8755, and 8780, round haul nets may be used to take fish in those portions of Districts 19 and 20 that are closed to the use of round haul nets by Sections 8754 and 8755 and in Districts 19A and 19B, but only for use or sale of those fish for live bait and subject to the following restrictions:

- (a) In Districts 19A and 19B, round haul nets may not be used within 750 feet of any public pier.
- (b) It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any dead fish taken under the authority of this section.

### **Swordfish**

Swordfish permit holders are subject to the provisions of §190, Title 14, of the CCR.

### **Title 14 Excerpts**

#### **§107. Broadbill Swordfish.**

- (a) Permit Required.
  - (1) The owner or operator of a vessel taking broadbill swordfish for commercial purposes shall have obtained a valid swordfish permit and shall be in possession of said permit when engaged in such activities.
  - (2) To Whom Issued. The Department shall issue a permit to the owner or operator of a currently registered vessel. The applicant, if the holder of an expired swordfish permit, shall have complied with subsection 107(e) dealing with records during the preceding year, or during the last year such applicant held a permit, in order to be eligible for a permit.
- (b) Limitations of Permit. Not more than one permit shall be issued to any operator. Permits shall not be assigned or transferred from person to person unless so authorized by the Department.
- (c) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations shall be in force from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.
- (d) Vessel Identification. Permittees vessel shall display its assigned permit number in 10" high x 2" wide black Roman alphabet letters and Arabic numerals. Figures shall be black on a white background on both sides of the superstructure of the vessel. Numbers shall be displayed at all times while operating under a swordfish permit.
- (e) Records. Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of all swordfishing activities

on a form (Swordfish Harpoon Log, DFG 107 (10/89)) provided by the Department.

(f) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

(g) Cost of Permit. See Section 8394.5 of the Fish and Game Code.

(h) Methods of Take.

(1) Swordfish may be taken only with hand-held hook and line or handthrust harpoon.

(2) Aircraft may be used to directly assist a permittee or any person in the taking of any species of fish while operating under a swordfish permit. Only aircraft with current FAA registration which are registered with the Department pursuant to Section 7881, Fish and Game Code, and aircraft pilots licensed pursuant to Section 7850, Fish and Game Code, may conduct flights for permittees. Such aircraft shall display the letters "SW" on the underside of each wing in block Roman alphabet at least 24 inches high x 3 inches wide, black in color and on a white background.

(i) Notification Procedure. The Department shall notify permittees if the director, pursuant to section 8577 of the Fish and Game Code, closes the swordfish harpoon fishery or any area where the fishery is conducted. The Department shall notify permittees by certified mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

(j) Revocation of Permits. Any permit may be revoked and canceled by the Commission upon breach or violation of any fish and game law or regulation or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

### **§107.1. Possession of Gill Nets by Swordfish Permittees.**

(a) Except as provided in subsection (b), any person operating under the authority of a swordfish permit as specified in Section 107 of these regulations may not possess a gill net aboard a swordfish permit vessel, except that set gill nets may be possessed, provided that the intent to use such gear has been declared on the application for a swordfish permit.

(b) Drift gill nets may be possessed onboard a swordfish permit vessel and used by a swordfish permittee who also possesses a valid permit which authorizes the use of a drift gill net to take swordfish.

### **FGC Excerpts**

#### **§8394. Swordfish permit.**

Swordfish shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid swordfish permit. At least one person aboard the boat shall have a swordfish permit issued to that person that has not

been revoked or suspended, subject to regulations adopted by the Commission.

#### **§8394.5. Swordfish permit fee.**

The fee for the permit issued pursuant to Section 8394 is three hundred thirty dollars (\$330). This permit fee does not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8560) of Chapter 2.

### **Tanner Crab**

#### **Title 14 Excerpts**

#### **§126. Commercial Take of Tanner Crab.**

(a) Permit Required for Take and Possession Using Trap Gear. Any vessel using traps to take, possess aboard a vessel, or land Tanner crab (*Chionoecetes* spp.) for commercial purposes shall have a valid Tanner Crab Trap Vessel Permit. Tanner crab taken incidentally in other trap fisheries may not be possessed and must be immediately returned to the water unless the vessel is issued a Tanner Crab Trap Vessel Permit. A Tanner Crab Trap Vessel Permit is not required to incidentally take, possess or land Tanner crab with gear other than trap gear. For purposes of this Section, the term "Tanner crab" includes all species of the genus *Chionoecetes*.

(1) Permit Issuance Provisions.

(A) An applicant is eligible to purchase a Tanner Crab Trap Vessel Permit for placement on a vessel if the following conditions are met:

(1) The vessel must be issued a valid commercial boat registration pursuant to Fish and Game Code Section 7881.

(2) The applicant must hold a valid commercial fishing license issued pursuant to Fish and Game Code Section 7850.

(3) The applicant must submit a Tanner Crab Trap Vessel Permit application form DFG 1439 (9/05), which is incorporated by reference herein, and the permit fee specified in subsection (a)(2).

(B) There are no deadlines or late fees for purchase of a Tanner Crab Trap Vessel Permit. The sale of Tanner Crab Trap Vessel Permits is not restricted and therefore permits are not subject to renewal requirements.

(2) Permit Fee. The Department shall charge a fee of \$10,000 for a Tanner Crab Trap Vessel Permit that is valid from April 1 through March 31.

(3) Other Permits Required,

(A) Any person who operates or assists on any vessel for purposes of taking, transporting or landing Tanner crab under authority of a Tanner Crab Trap Vessel Permit shall possess a valid commercial fishing license issued pursuant to Fish and Game Code Section 7850, unless expressly exempted by that Section.

(B) Any person operating under authority of Fish and Game Code Section 7850 who operates or assists on any vessel when trap gear is aboard for purposes of taking, transporting or landing Tanner crab under authority of a Tanner Crab Trap Vessel Permit shall also possess a valid General Trap Permit issued pursuant to Fish and Game Code Section 9001.

(4) Tanner Crab Trap Construction Requirements, Specifications, and Limits.

(A) State Trapping Requirements. As a condition of this permit, Tanner crab traps and commercial Tanner crab trap fishing activities are subject to statutes and regulations that define and specify

the following general trap requirements: trap logbooks and submission requirements, trap destruction devices, disturbing traps of another, trap servicing intervals not to exceed 96 hours, trap marker buoys, and other trap and buoy identification requirements. These statutes and regulations are defined in Fish and Game Code sections 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9008, and sections 180, 180.2, 180.5, and 190, Title 14, CCR.

(B) Trap Construction and Dimensional Requirements.

1. Escape Ports. Every Tanner crab trap shall have at least three openings of at least 4.5 inches in diameter in the side or upper panels of the trap to allow for escapement of undersized crab. The 4.5-inch measurement of the opening shall be taken at its smallest inside diameter. The openings may be constructed with a rigid opening such as a ring or as part of a mesh panel. At the time of measurement, the trap shall be set upright as if it were in use. If the opening is non-rigid or contained within pliable mesh, the smallest inside diameter measurement shall be taken so that a rigid cylindrical measuring device 4.5 inches in its outside diameter and at least three inches in length shall be able to pass easily through the opening.

2. Trap Dimensional Requirements. Tanner crab traps must not be more than 10 feet long and not more than 10 feet wide and not more than 42 inches high, as measured by the greatest distance in each dimension.

(C) Trap Destruction Devices. Traps utilized under authority of a Tanner Crab Trap Vessel Permit must contain a trap destruction device meeting the requirements for Tanner crab traps specified in Section 180.2, Title 14, CCR.

(D) Prohibition on Pop-Ups. Timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop-ups," shall not be used on buoy lines attached to Tanner crab traps, and shall not be possessed by any commercial vessel while taking, attempting to take, or possessing Tanner crabs.

(E) Depth Requirement. Tanner crab traps shall only be placed or otherwise used in water depths greater than 300 fathoms.

(F) Vessel Buoy Marking Requirement. In addition to the trap and buoy marking requirements specified in Fish and Game Code section 9006 and 9007, every string of traps shall be marked with a buoy on each end of the string that is marked with the vessel's commercial boat registration number issued by the Department pursuant to Fish and Game Code Section 7881. A vessel fishing under authority of a Tanner Crab Trap Vessel Permit may only take, possess aboard a vessel, transport, deliver, or land Tanner crab from traps marked with the vessel's own registration number. The vessel's registration number on each buoy shall be preceded by the letters "TC." The numbers and letters shall be in a color which contrasts with the color of the buoy. A line thickness no less than 1/8 inch shall be used to create letters and numbers which shall be no less than two (2) inches in height and no less than one (1) inch in greatest width. The permit holder shall maintain the buoys so that the registration numbers and the letters "TC" are legible and easily determined.

(G) Disturbing Traps Prohibited. It is unlawful to willfully or recklessly disturb, move or damage any trap or attachment thereof that belongs to another owner and that is marked with a vessel



registration number and the letters "TC."

However, a person aboard a permitted vessel may pull or raise a trap marked with a buoy bearing a vessel registration number and the letters "TC" other than his own, but must have written permission in his or her immediate possession from the permittee whose vessel registration number is marked on the buoy. This subsection does not apply to employees of the Department while engaged in the performance of official duties. Employees of the Department may disclose the name, address, and registration number of Tanner Crab Trap Vessel permittees to representatives of public safety agencies to assist in the return of traps and attachments to their proper owners. This subsection does not create any duty on any state or local agency to remove or move a trap, line, or buoy that may endanger the public safety and does not create any liability to Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(H) Trap and String Limits. No more than 480 traps may be submerged or otherwise used per permitted vessel. Not more than six strings with not more than 80 traps per string shall be submerged or otherwise used. All traps must be fished on a string of traps. For purposes of this Section, "string" means individual traps that are connected by line or other means.

(5) Processing at Sea. Vessels may process crabs at sea and land them in a condition other than whole pursuant to the requirements of this Section.

(A) For purposes of this Section, the term "processing" shall not be equated to the term or activity of "Process fish" as defined in Fish and Game Code Section 8031.

(B) If Tanner crab is not landed in the round, the whole-weight conversion factor that shall be applied is 1.61. At the time the landing receipt is completed pursuant to Fish and Game Code Section 8043, the processed weight shall be recorded in the "Pounds" section and the converted whole weight, in pounds, shall be recorded in the space marked "Note Pad" on the landing receipt.

(C) For purposes of landing tax payments as required and specified by Fish and Game Code sections 8041 and 8051, for Tanner crab landed in processed condition, tax payments shall be computed and paid based on the converted whole weight.

(6) Cumulative Vessel Trip Limits.

(A) A cumulative trip limit is the total number of pounds of Tanner crab that may be taken and retained, possessed, or landed by a vessel in a two-month period without a limit on the number of landings or trips. The cumulative trip limit per vessel per designated two-month limit period is 250,000 pounds of whole crab. For purposes of calculating catch against a cumulative vessel trip limit, all landings of processed crab shall be converted to the whole-weight equivalent as described in subsection (a)(5)(B).

(B) Cumulative trip limit periods start at 0001 hours local time, end at 2400 hours local time, and are in two month periods as follows:

1. January 1 through the last day of February,
2. March 1-April 30,
3. May 1-June 30,
4. July 1-August 31,
5. September 1-October 31,
6. November 1-December 31.

(C) All landings made in a vessel's registration number listed on landing receipts submitted to the Department pursuant to Fish and Game Code

Section 8043 count toward the cumulative trip limit for the two month period that corresponds to the date on the receipt. Such receipts must accurately record the weight of Tanner crab landed.

(D) Copies of all landing receipts which document the catch of Tanner crab shall be kept onboard the fishing vessel throughout, and for 15 days following, each period for which cumulative landings by individual vessels are limited.

(E) When the seasonal catch limit defined in subsection (b) is reached and action to close the fishery is taken, cumulative trip limits defined in this subsection become inoperative.

(7) Incidental Landings and Allowances.

(A) No more than five percent of the total possessed or landed catch by weight may be comprised of invertebrates other than Tanner crab. All crab and other invertebrates taken in Tanner crab traps, except for crab of the genus *Cancer* (including but not limited to Dungeness crab and rock crab) may be landed and sold incidentally under authority of a Tanner Crab Trap Vessel Permit.

(B) All finfish taken in Tanner crab traps, with the exception of sablefish, shall immediately be returned to the water. Sablefish may be landed if authorized pursuant to Federal groundfish regulations.

(C) No invertebrates or finfish taken in Tanner crab traps may be used as bait.

(8) Observer Requirements and Cooperation with Observer Programs.

(A) Each permittee is required to carry an observer onboard to gather biological, fishery and bycatch information during Tanner crab fishery operations according to the specifications defined in this subsection. The permittee shall contract with either a National Marine Fisheries Service (NMFS)-certified observer provider firm, or a private individual who is certified either as a NMFS observer or as a crab observer by the Alaska Department of Fish and Game. The Tanner Crab Trap Vessel permittee shall be liable for a violation of any terms or conditions of this subsection.

1. Prior to contracting, the permittee is required to acquire Department approval of the selected provider firm or private individual. The Department shall review the qualifications of the observer with whom the vessel wishes to contract with, and may reject the individual or firm. Request for Department approval shall be directed to the Department's Marine Region Regional Manager or his or her designee, and must be sought by phone at (562) 342-7108, and in writing to the Department's office at 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720. Requests for approval must be made at least 60 days prior to the planned commencement of fishing activity. At the time the request is made, the permittee must also notify the Department of the anticipated start date of fishing activity.

2. As a condition of the contract, the observer shall collect biological and fishery data according to the Department's onboard data collection protocol. The permittee is required to ensure that while aboard, the observer is gathering data at all times when the vessel is engaged in fishing activity. Data collected by the observer shall include, but is not limited to, information on catch, incidental take, sex ratio, size, weight, discards, vessel position and depth, trap soak time, number of traps set and pulled, observation reports and other documentation. The Department's onboard data collection protocol is comparable to federal fishery observer programs.

3. The Department will provide all necessary sampling materials, equipment and a computer to the selected provider firm or individual for the observer's use aboard the vessel. The permittee shall ensure that the sampling materials, equipment and computer are returned to the Department following completion of the observer's duties. Observer safety equipment needs and safety specifications shall be arranged by the permittee with the selected provider firm or private individual, and shall not be the responsibility of the Department.

4. The contract between the permittee and the selected provider firm or private individual shall specify that data collected aboard the vessel shall be the property of the Department.

5. The permittee shall ensure that all data collected or reported by the observer shall be delivered to the Department office at 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720 on or before the 10th day of each month following the month to which the observer's records pertain. Observer records that are mailed shall be postmarked on or before the 10th day of each month following the month to which the records pertain.

6. The permittee shall ensure that the data and all reports and documentation are collected by the observer on paper data sheets, entered into a computer provided by the Department, and provided to the Department in electronic format according to the submission procedures described in this subsection. Paper data sheets used onboard the vessel shall be included with the electronic data submitted to the Department.

(B) As a condition of a Tanner Crab Trap Vessel Permit, the permittee is required to have an observer onboard at the time the vessel's fishing activity commences each fishing season, and during all fishing operations that occur over the sixty consecutive days that follow. A vessel's fishing activity commences at the time that a trap is deployed for purposes of commercially harvesting Tanner crab.

(C) All vessels and persons operating under authority of a Tanner Crab Trap Vessel Permit are subject to provisions of Section 105.5, Title 14, CCR. The crew must allow personnel designated by the Department to board any commercial fishing vessel, conveyance, or other mechanical device used under authority of a Tanner Crab Trap Vessel Permit, to observe or inspect equipment, procedures, crabs, other invertebrates or fish.

(9) Permit Revocation and Violations.

(A) Pursuant to Fish and Game Code subsection 1052(b), a Tanner Crab Trap Vessel Permit shall be revoked if the applicant or permittee submits false information for the purposes of obtaining a permit.

(B) Any Tanner Crab Trap Vessel Permit may be suspended, revoked or cancelled by the Commission upon notice by the Department of a violation by a permit holder, or any person acting under authority of his or her permit, of Fish and Game Code sections 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9008, sections 105.5, 180, 180.2, 180.5, and 190, Title 14, CCR, the regulations of this Section, or other provisions of the Fish and Game Code or regulations of the Fish and Game Commission relating to crabs, traps, and times or areas closed to fishing.

(C) The Tanner Crab Trap Vessel Permit holder shall be liable for any violations committed by him or her of Fish and Game Code sections 9001, 9002, 9003, 9004, 9005, 9006, 9007, and

9008, sections 105.5, 180, 180.2, 180.5, and 190, Title 14, CCR, the regulations of this Section, or other provisions of the Fish and Game Code or regulations of the Fish and Game Commission relating to crabs, traps, and times or areas closed to fishing. The Tanner Crab Trap Vessel Permit holder shall also be liable for violations committed by any other person operating under the authority of his or her permit. Additionally, any such other person is liable for his or her own violations.

- (b) **Seasonal Catch Limit.** For the period from April 1 through March 31 of the following year, a total of not more than two million pounds of Tanner crab may be landed in California. For purposes of this catch limit, all landings of processed crab shall be converted to the whole-weight equivalent as described in subsection (a)(5)(B).

The directed trap fishery closure shall be implemented as follows:

- (1) **Mechanism for Fishery Closure.** The Department will estimate from the current trends in catch and using available scientific information the time at which the catch limit will be reached. The Department will close the directed trap fishery at the time the catch limit is reached or is projected to be reached prior to the end of the fishing year.
- (2) The Department shall give holders of Tanner Crab Trap Vessel Permits described in subsection (a) no less than 10 days notice of the closure via a notification letter sent to the permittee's address on file with the Department. The Department shall give the public and the Commission no less than 10 days notice of the closure via a Department news release.
- (3) When the Tanner crab catch limit has been reached, Tanner crab may continue to be taken incidentally in other fisheries where a Tanner Crab Trap Vessel Permit is not required.
- (c) **Minimum Size Limit.** Any species of Tanner crab must have a minimum carapace width of 5 inches measured by the greatest straight-line distance across the carapace at a right angle to a line midway between the eyes to the posterior margin, not including spines. Every person taking Tanner crabs shall carry a measuring device and any Tanner crab that is found to be undersized shall immediately be returned to the water.
- (d) **Male-Only Fishery.** Only male Tanner crabs may be retained and landed. All female Tanner crabs shall immediately be returned to the water.
- (e) **Prohibition on Use as Bait.** Tanner crabs may not be used as bait in any commercial fishery.
- (f) **Tidal Invertebrate Permits.** Tidal Invertebrate Permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of Tanner crab.

### **Tidal Invertebrate**

Sea urchin permit holders are also subject to the provisions of §123, Title 14, of the CCR.

## **Title 14 Excerpts**

### **§123. Tidal Invertebrates.**

Marine invertebrates shall not be taken for commercial purposes in any tide pool or tidal area, including tide flats or other areas between the high tide mark and 1,000 feet beyond the low tide mark of any natural or constructed shoreline, except as otherwise provided in this section. Revocable Tidal Invertebrate Permits may be issued by the Depart-

ment in accordance with the following regulations:

- (a) **Qualifications of Permittee.** The applicant must be a licensed commercial fisherman. If a vessel is used in taking or transporting tidal invertebrates for commercial purposes, the vessel must be currently registered and all fishermen on the vessel must possess a valid Tidal Invertebrate Permit.
- (b) **Limitation of Permit.** Not more than one permit shall be issued to any one person. Permits shall not be assigned or transferred from person to person.
- (c) **Duration of Permit.** Any Tidal Invertebrate Permit issued pursuant to these regulations shall be valid from April 1 to March 31 of the following year, or, if issued after the beginning of such term for the remainder thereof.
- (d) **Permit Exemption.** Commercial fishermen taking only lobster, sea cucumber, squid, crab or sea urchin need not possess the permit as required in this section but are subject to the provisions of this section and must have the appropriate permits to take such species as required by Fish and Game Code Sections 8254, 8405, 8421, 9001, and 9054, and regulations adopted pursuant thereto.
- (e) Provisions of this section do not apply to commercial fishermen taking freshwater clams or crayfish in inland waters.
- (f) **Permit Conditions.**
- (1) Under the terms of a Tidal Invertebrate Permit issued pursuant to this section only the following invertebrates may be taken for commercial purposes: barnacles, chiones, clams, cockles, sand crabs, limpets, mussels, sand dollars, octopuses, shrimp, sea hares, starfish, worms, and native oysters subject to the following restrictions.
- (A) Marine worms shall not be taken in any mussel bed, nor shall any person pick up, remove, detach from the substrate any other organisms, or breakup, remove, alter or destroy any rock or other substrate or surfaces to which organisms are attached to obtain marine worms.
- (B) Clams may only be taken in accordance with restrictions listed pursuant to Fish and Game Code Sections 8340-8343, 8346.
- (2) Marine invertebrates may not be taken for commercial purposes in state marine reserves or state marine parks. Commercial take of marine invertebrates may be limited in state marine conservation areas pursuant to specific regulations in subsection 632(b).

## **FGC Excerpts**

### **§8500. Commercial taking restrictions.**

Except as otherwise expressly permitted in this chapter, no mollusks, crustaceans, or other invertebrates may be taken, possessed aboard a boat, or landed for commercial purposes by any person in any tide pool or tidal area, including tide flats or other areas between the high tidemark and 1,000 feet beyond the low tidemark, unless a valid tidal invertebrate permit has been issued to that person that has not been suspended or revoked. The taking, possessing, or landing of mollusks, crustaceans, or other invertebrates pursuant to this section shall be subject to regulations adopted by the Commission.

**PROHIBITED SPECIES:** Listed on page 5 are species that must not be taken in California waters for commercial purposes, or be possessed unless otherwise authorized.

## **Trap Permit**

Dungeness crab vessel permit holders are also subject to the provisions of §180.2 and 180.5, Title 14, of the CCR, and FGC §9002 through 9012. Lobster operator permit holders are also subject to the provisions of §180.2, Title 14, of the CCR, and FGC §9002 - 9010. Spot prawn vessel permit holders are also subject to the provisions of §180, 180.1, 180.2, 180.3 and 180.5, Title 14, of the CCR.

## **Title 14 Excerpts**

### **§180. Traps.**

Revocable, non-transferable permits to use traps for commercial purposes may be issued by the Department to take fish, mollusks and crustaceans except market crabs (Cancer magister) and lobster under the following conditions:

- (a) Permits will include conditions under which traps shall be used to take fish, mollusks or crustaceans. No person shall use any trap except as authorized in a permit. The taking of spot prawns shall be subject to the conditions of this section and section 180.1.
- (b) Every person who takes or assists in taking fish, mollusks, or crustaceans with any trap or who possesses or transports fish, mollusks, or crustaceans on any boat, barge, or vessel when any trap is aboard, shall have in his possession a valid permit issued to him pursuant to this section while engaged in any such activity.
- (c) The Department may inspect the traps at any time.
- (d) Records. Pursuant to section 190 of these regulations, each permittee may be required by the Department to complete and submit an accurate log of the fishing operations on a form (Daily Trap Log, DFG 180A (10/89) or Daily Sablefish Trap Log, DFG 180B (10/89) provided by the Department.
- (e) Traps must be marked by buoys as specified by the Department.
- (f) All traps must have at least one destruct device of a type authorized by the Department.
- (g) The permit may be suspended temporarily by the Director for a breach or violation of the terms of the permit by the holder thereof, or any member of his crew on the designated vessel. In addition, the permit may be temporarily suspended or denied by the Director if he determines that the trap or its operation is detrimental to any of the ocean's living marine resources. The Commission shall be notified of any such suspension, and subsequently may revoke or reinstate the permit or fix the period of its suspension after written notice to the permittee and after he has been afforded an opportunity to be heard. In the event a permit is denied by the Director the applicant may apply to the Commission for an experimental gear permit under Section 8606 of the Fish and Game Code.
- (h) The permit number of the boat operator shall be displayed on both sides of the boat in ten-inch black numbers on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the numbers.
- (i) **Cost of Permit.** The fee for this permit shall be the amount specified in Section 9001, Fish and Game Code.
- (j) **Exemption from Tidal Invertebrate Permit.** A commercial fisherman operating under the provisions of a commercial trap permit and lobster operator permit is not required to possess a Tidal

Invertebrate Permit, but is subject to the provisions of Section 123.

### **\$180.1 Spot Prawn, *Pandalus platyceros*, Fishing**

Spot prawns may only be taken by trap for commercial purposes pursuant to subsection 120.3 of these regulations, or by traps, pursuant to sections 180, 180.2, 180.3, 180.5 and this section.

- (a) No trap may be used to take spot prawns from November 1 through January 31, between a line drawn due west from Point Arguello, Santa Barbara County and the United States – Mexico boundary. No trap may be used to take spot prawns from May 1 through July 31 between a line drawn due west from Point Arguello, Santa Barbara County, and the California-Oregon boundary.
- (1) Spot prawn traps may be set and baited no earlier than 0600 hours (6:00 a.m.) on January 31 in waters south of a line drawn due west from Point Arguello, and no earlier than 0600 hours (6:00 a.m.) on July 31 in waters north of a line drawn due west from Point Arguello.
- (2) In areas in which the season closure begins November 1, all traps must be removed from the water prior to November 1, weather and sea conditions permitting. In areas in which the season closure begins May 1, all traps must be removed from the water prior to May 1, weather and sea conditions permitting. In the event that a permittee is unable to comply with this subdivision, then that person must notify the nearest Department office via telephone or FAX and certified mail not later than 1600 hours (4:00 p.m.) on November 1 or May 1, whichever is applicable, stating the reason for the delay and the anticipated date of trap removal. Notification does not relieve the permittee of responsibility for complying with this subdivision unless approved by the Department.
- (3) All spot prawns taken in any trap during the closed season shall be immediately returned to the water and no spot prawn may be possessed aboard, or landed from, any vessel operating under authority of a spot prawn trap permit in any area during the closed season in that area.
- (b) All spot prawn traps shall be made of mesh with a minimum inside measurement of 7/8 inch by 7/8 inch, such that a 7/8 inch square peg passes through the mesh without stretching the mesh. (Note: Fathom Plus Traps may be used to take spot prawns.)
- (c) Trap Limits.
- (1) Tier 1 and Tier 3 trap limits. Not more than 500 traps may be used from any Tier 1 or Tier 3 vessel to take spot prawns except that not more than 300 traps may be used from any Tier 1 or Tier 3 vessel to take spot prawns within three miles of the mainland shore between a line drawn due west from Point Arguello, Santa Barbara County, and the California-Oregon boundary.
- (2) Tier 2 trap limits. Not more than 150 traps may be used from any Tier 2 vessel.
- (d) Each string of spot prawn traps shall be marked with a buoy bearing the commercial fishing license identification number issued to the owner or operator of the vessel.

### **\$180.2. Trap Destruction Devices.**

Pursuant to the provisions of Section 9003 of the Fish and Game Code, every trap used to take finfish, mollusks or crustaceans shall contain at least

one destruction device that complies with the specifications described in this Section. The use of any structures or materials that defeat or interfere with the purpose of the destruct device is prohibited.

(a) Escape openings.

- (1) Each trap destruct device shall create an unobstructed escape opening in the top or upper half of the trap of at least 5 inches in diameter when the destruct attachment material corrodes or fails, except for traps used under authority of a Tanner Crab Trap Vessel Permit.
- (2) Traps used under authority of a Tanner Crab Trap Vessel Permit shall have an unobstructed escape opening in any sidewall or on the top of the trap; the escape opening shall not be on the floor of the trap. The opening shall measure not less than 11 inches taken at its smallest inside diameter. If the opening is non-rigid or contained within pliable mesh, the smallest inside diameter measurement shall be taken so that a rigid cylindrical measuring device 11 inches in its outside diameter and at least 6.5 inches in length shall be able to pass easily through the opening.
- (b) The escape opening on each trap must be closed with one of the following destruct attachment materials:
- (1) 14 gauge (.080 + or - .003 inch) or smaller metal hog rings excluding stainless steel or other non-corrodible materials;
- (2) untreated cotton twine size No. 21-thread or less, except that traps used to take Dungeness, Tanner or rock crabs are limited to a single strand of untreated cotton twine size No. 120 or less;
- (3) 24 gauge (.028 + or - .003 inch) or smaller uncoated bare metal crimps excluding stainless steel or other non-corrodible materials;
- (4) magnesium pins not larger than one-quarter (.25) inch in diameter which may be used to hold together each half of plastic or fiberglass traps or may be used to attach the lid or door; or
- (5) The use of rubber straps attached to metal or plastic hooks with a single loop of untreated cotton twine size No. 120 or less may be used to close the trap provided they are attached in such a manner as to aid the destruct process. The use of any rubber strap or non-corrosive material that defeats or interferes with the purpose of the destruct panel is prohibited.
- (c) Notwithstanding subsection (a) above, traps used to take Dungeness crabs, which are constructed of wire mesh, may have not more than a single wire mesh (described as a "V") that protrudes into the destruct device opening provided that mesh extends into the opening a distance of not more than 2 1/2 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the destruct attachment material. On Dungeness crab traps constructed of wire mesh, the panel containing the destruct device and the wire mesh acting as an anchor for the destruct material must be constructed of a single wire no greater than .050 inches in diameter. This subsection shall become operative on July 16, 2006.

### **\$180.4. Finfish Trap Construction.**

The entrance funnels of finfish traps used in waters between Point Arguello, Santa Barbara County, and Point Montero, San Mateo County, shall have a rigid inside entrance diameter of not greater than 5.00 inches. Funnels constructed of a readily deformable material such as "chicken wire" and commonly referred to as "pulled" shall have a rigid

metal ring of not greater than 5.00 inches in diameter permanently affixed in each entrance funnel.

### **\$180.5. Trap Buoy Identification.**

Pursuant to the provisions of Section 9005 of the Fish and Game Code, every trap or string of traps placed in waters of the state to take finfish, mollusks or crustaceans for commercial purposes shall be marked with a buoy. Buoys used to mark any trap or string of traps shall be clearly and distinctly marked with a buoy identification number as required by Section 9006 of the Fish and Game Code. The specified identification number shall be at least one and one-half inches in height and one-quarter inch in width. Each trap marker buoy shall bear the specified number in a color which contrasts with that of the buoy and the number shall be applied so that it is visible and legible.

## **FGC Excerpts**

### **\$8275. Dungeness Crab; Market Crab; Owner; Reconstruction; Rock Crab; Under Construction.**

Unless the provision or context otherwise requires, the definitions in this section govern the construction of this article.

- (a) "Dungeness crab" or "market crab" means crab of the species *Cancer magister*.
- (b) "Reconstruction" means major work on the hull of a vessel to make that vessel operable in the California crab fishery if that work may reasonably be expected to be of a duration that will preclude operation of that vessel in the crab fishery for the length of the crab season or longer.
- (c) "Rock crab" means any crab of the genus *Cancer* other than Dungeness crab and includes rock crab (*Cancer antennarius*), red crab (*Cancer productus*), and yellow crab (*Cancer anthonyi*).
- (d) "Under construction" means having plans and materials and proceeding with work toward the completion of an operational Dungeness crab fishing vessel.

### **\$8281. Possession and Transportation of Crab Meat.**

Crab meat and frozen whole crabs or parts thereof, which are taken during the open season, may be possessed, transported, and sold at any time, subject to the regulations of the Commission. The cost of inspection and marking, under the regulations of the Commission, shall be paid by the owner or seller of such crab meat, crabs, or part thereof.

### **\$8282. Taking Rock Crab.**

- (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, and subject to the regulation of the Commission authorized under subdivision (c), rock crab may be taken in traps in any waters of the state at any time, except in Districts 9, 19A, 19B, and 21 and those portions of District 20 lying on the north and east sides of Santa Catalina Island north of Southeast Rock. Rock crab (*Cancer antennarius*), red crab (*Cancer productus*), or yellow crab (*Cancer anthonyi*), which is less than 4 1/4 inches, measured in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, or sold.
- (b) Any person taking rock crab shall carry a measuring device and shall measure any rock crab immediately upon removal from the trap. If the person determines that the rock crab is



undersize, the person shall return it to the water immediately.

- (c) Upon the recommendation of the director regarding rock crab fishery management measures, and following a public hearing on the matter, at which findings are adopted, the Commission may adopt regulations to manage the rock crab resource consistent with Part 1.7 (commencing with Section 7050).

#### **§8284. Taking with Traps, Species to be Released if Taken Incidentally.**

- (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, crab traps, as described in Section 9011, may be used to take Dungeness crab for commercial purposes. Any fish may be taken incidentally in crab traps being used to take Dungeness crab.
- (b) Any other species taken incidentally in a crab trap being used to take rock crab, except as provided in subdivision, shall be immediately released back to the water.
- (c) The following species may be taken incidentally in crab traps being used to take rock crab under a permit issued pursuant to Section 9001 in Districts 19 and 118.5:
- (1) Keller's whelk.
  - (2) Octopus.
  - (3) Crabs, other than the genus *Cancer*.

#### **§8400. Baitfish; Taking Restrictions.**

- (a) California killifish (*Fundulus parvipinnis*), mudsuckers (*Gillichthys mirabilis*), and yellowfin gobies (*Acanthogobius flavimanus*) may only be taken for commercial purposes with baitfish traps in the tidewaters of Districts 3½, 4, 4 1/8, 4¼, 17, and 21, in the tidewaters of District 10 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.
- (b) Shiner perch (*Cymatogaster aggregata*), staghorn sculpin (*Leptocottus armatus*), mudsuckers (*Gillichthys mirabilis*), and yellowfin gobies (*Acanthogobius flavimanus*) may only be taken for commercial purposes with baitfish traps in Districts 11, 12 and 13 and in the tidewaters of Districts 2 and 2½.
- (c) Any unauthorized species taken incidentally in baitfish traps in the districts specified in subdivisions (a) and (b) shall be immediately released.
- (d) Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing with Section 9000) of Chapter 4.

#### **§8403. Finfish; Taking.**

- (a) To the extent not in conflict with Section 8607, marine species of finfish which are classified as groundfish may be taken under the regulations of the Commission.
- (b) Marine species of finfish, including, but not limited to, finfish which are classified as groundfish, may be taken with finfish traps, subject to Article 1 (commencing with Section 9000) of Chapter 4, under regulations of the Commission. The regulations may limit the number of finfish traps which any vessel may use, designate the areas in which the traps may be used, and prescribe other limitations on the use of finfish traps.
- (c) Any other species not otherwise prohibited may be taken in a finfish trap.

#### **§8593. Areas for taking.**

Except as provided in this article, prawns or shrimp may be taken in any waters of this state.

#### **§8594. Depth Minimum for Taking.**

From Point Conception south to the Mexican border, prawns or shrimp may be taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

#### **§8595. Trawl Nets; Use and restrictions.**

- (a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3, or in either a prawn trap or a shrimp trap, subject to Article 1 (commencing with Section 9000) of Chapter 4.
- (b) No other species shall be taken in a prawn trap or a shrimp trap. Any other species taken incidentally with a prawn trap or a shrimp trap shall be immediately released.

#### **§8604. Illegal disturbance or injury to net or trap; Exception.**

It is unlawful willfully to disturb or injure any net, trap, or other apparatus to take fish which is being legally used in the waters of this state. This section does not apply to employees of the Department while they are engaged in the performance of their official duties.

#### **§8660. Use Within 750 Feet of Pier, Wharf, Jetty or Breakwater; Exception.**

Nothing in this chapter authorizing the use of nets in District 19 or 19A shall authorize the use of any net\* within 750 feet of any pier, wharf, jetty, or breakwater, except that dip nets may be used subject to the provisions of Section 8870.

\*"Net" is defined in FGC §56 on page 52.

#### **§9000. Use Trap to Take Finfish, Mollusk, or Crustacean Commercially.**

- (a) Except as expressly authorized in this article, no person shall use a trap to take any finfish, mollusk, or crustacean in the waters of this state for commercial purposes.
- (b) Traps may be used to take finfish in ocean waters only as authorized by this article.
- (c) Freshwater baitfish traps that are used as provided in Section 8463 are not subject to this article.

#### **§9000.5. Trap Descriptions.**

- (a) "Bucket trap" means a plastic bucket of five gallons or less in capacity.
- (b) "Deeper nearshore species" means those finfish identified as deeper nearshore species in regulations adopted by the Commission pursuant to Section 8587.1.
- (c) "General trap permit" means a valid permit to take fish for commercial purposes issued pursuant to Section 9001 that has not been suspended or revoked.
- (d) "Korean trap" means a molded plastic cylinder that does not exceed 6 inches in diameter and does not exceed 24 inches in length.
- (e) "Nearshore species" means those finfish identified as such in regulations adopted by the Commission pursuant to Section 8587.1.
- (f) "Pop-up" means a mechanism capable of releasing a submerged buoy at a predetermined time.

#### **§9001. Permit for Trapping Finfish, Mollusks, or Crustaceans Commercially.**

- (a) Finfish, mollusks, or crustaceans shall not be taken by a person with traps for commercial purposes in ocean waters except under a valid general trap permit issued to that person that has not been suspended or revoked.

- (b) Any person who operates or assists in operating any trap to take finfish, mollusks, or crustaceans, other than lobster or Dungeness crabs, as defined in Section 8275, or who possesses or transports finfish, mollusks, or crustaceans on any boat, barge, or vessel when any trap is aboard, shall have a general trap permit issued to that person that has not been revoked or suspended while engaged in the activity.
- (c) The fee for the general trap permit shall be thirty-five dollars (\$35).
- (d) This section does not apply to the taking of lobster under Section 9010 or to the taking of Dungeness crab under Section 9011.

#### **§9001.6. Hagfish may be taken under a general trap permit, if all of the following criteria are met:**

- (a) Korean traps and bucket traps may be used to take only hagfish under this article.
- (b) No more than a total of 500 Korean traps or a total of 200 bucket traps may be possessed aboard a vessel or in the water or combination thereof.
- (c) No permittee may possess both Korean traps or bucket traps and other types of traps aboard a vessel at the same time. When Korean traps or bucket traps are being used or possessed aboard a vessel, no species of finfish other than hagfish shall be taken, possessed aboard, or sold for commercial purposes.
- (d) Pop-ups shall not be used on buoy lines attached to Korean traps or bucket traps, and shall not be possessed by a commercial fisherman aboard a vessel when taking hagfish.

#### **§9001.7. Taking of Finfish under General Trap Permit**

Finfish, other than sablefish and hagfish, may be taken under a general trap permit if all of the following criteria are also met:

- (a) Every person aboard the vessel possesses a valid general trap permit that has not been suspended or revoked.
- (b) If nearshore species are present, at least one person aboard the vessel possesses a valid nearshore fishery permit and a nearshore fishery trap endorsement that has not been suspended or revoked.
- (c) If deeper nearshore species are present, at least one person aboard the vessel possesses a valid deeper nearshore species fishery permit that has not been suspended or revoked.
- (d) During the period from one hour after sunset to one hour before sunrise, finfish traps that are left in the water shall be unbaited with the door secured open. If, for reasons beyond the control of the permittee, all trap doors cannot be secured open prior to one hour after sunset, the permittee shall immediately notify the Department.
- (e) Pop-ups shall not be used on buoy lines attached to finfish traps, and shall not be possessed aboard a vessel when taking finfish under a general trap permit.
- (f) Trap destruction devices used on finfish traps shall conform to the current regulatory requirements for those devices pursuant to Section 9003 and as adopted by the Commission.
- (g) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in District 6, 7, 17, 18, 19, 19A, 19B, 20, 20A, 20B, or 21.
- (h) No more than 50 finfish traps may be used in state waters along the mainland shore.
- (i) The mesh of any finfish trap used pursuant to this section shall measure not less than two inches

by two inches.

- (j) The following fish shall not be used as bait in finfish traps:
  - (1) Lobster.
  - (2) Crabs of the genus *Cancer*, except rock crab, yellow crab, and red crab, as identified in Section 8282, which may be used as bait under the authority of a rock crab trap permit issued pursuant to Section 8282.
  - (3) Any other finfish or invertebrate to which a minimum size limit applies that is used or possessed in a condition so that its size can not be determined.
- (k) Lobster may be possessed aboard or landed from any vessel on which finfish are also present, if every person aboard the vessel has a valid lobster permit that has not been suspended or revoked and complies with Article 5 of Chapter 2 of the Fish and Game Code, this article, and the regulations adopted pursuant thereto.

#### **\$9001.8. Sablefish Limitations - Point Arguello to Mexican Border.**

Sablefish may be taken under a general trap permit in ocean waters between a line extending due west true from Point Arguello in Santa Barbara County and the United States-Mexico international boundary line, if all of the following criteria are also met:

- (a) The trap shall be six feet or less in its greatest dimension.
- (b) The mesh of any trap used for sablefish pursuant to this section shall measure not less than two inches by two inches.
- (c) The traps may be used only in waters 200 fathoms or deeper.
- (d) No permittee may possess aboard a vessel at the same time, sablefish traps and any other commercial fishing gear, except that spot prawn traps may be possessed during spot prawn trap open fishing periods as established by the Commission and if the permittee has a valid spot prawn trap vessel permit that has not been suspended or revoked.

#### **\$9002. Disturb, etc., Traps of Another.**

- (a) Except as provided in subdivisions (b), (c), and (d), it is unlawful to willfully or recklessly disturb, move, or damage any trap which belongs to another person and that is marked with a buoy identification number pursuant to Section 9006.
- (b) A person, who has been issued a general trap permit under Section 9001 and has it in his or her possession, may pull or raise a trap marked with a buoy, if the buoy is marked with a buoy identification number pursuant to subdivision (b) of Section 9006. A person pulling or raising a trap marked with a buoy identification number, other than his or her own buoy identification number, shall have written permission in his or her possession from the other person who holds the buoy identification number that is marked on the buoy.
- (c) Subdivision (a) does not apply to employees of the Department while engaged in the performance of official duties.
- (d) (1) Subdivision (a) does not apply to publicly employed safety personnel, including, but not limited to, lifeguards, marine safety officers, harbor patrol officers, and peace officers, who, while engaged in the performance of their official duties, may remove a trap, buoy, or line located in or near breaking surf or adjacent to a public beach if they believe that the trap poses a public safety hazard. If any of those persons remove a

trap, a buoy, or a trap or buoy line, any captured marine life shall be immediately returned to the ocean.

- (2) Any person described in this subdivision who removes a trap and any attachments thereto identified by a buoy identification number shall make an attempt to contact the person whose permit or license number is marked on the buoy by personal contact, by telephone, by recorded message left on a telephone answering machine, by regular United States Postal Service, or by other means, advising where the property is located. Those persons shall have no responsibility to secure the trap or attachments against loss or damage.
- (3) Employees of the Department may disclose the name, address, and buoy identification numbers of currently permitted or licensed persons to representatives of public safety agencies described in this subdivision to assist in the return of traps and attachments to their proper owners or operators.
- (4) If the person whose permit or license number is marked on the buoy has been notified pursuant to this subdivision but has not retrieved the trap within seven days of notification, or if that person cannot be identified within seven days after the trap has been removed, the trap may be discarded.
- (5) This subdivision does not create any duty on any state or local agency to remove or move a trap, line, or buoy that may endanger the public safety and does not create any liability pursuant to Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

#### **\$9003. Destruct devices.**

Every trap shall have at least one destructive device which meets specifications approved by the Department. In order to minimize the adverse effects on living marine resources, the specifications for destruction devices shall provide for a device that destructs rapidly enough to facilitate escape of substantial proportion of all species confined in the trap from any trap that cannot be raised.

#### **\$9004. Trap Raising Intervals; Abandonment Prohibited.**

Every trap shall be raised, cleaned, serviced, and emptied at intervals, not to exceed 96 hours, weather conditions at sea permitting, and no trap shall be abandoned in the waters of this state.

#### **\$9005. Buoy Markers Required.**

Every trap or string of traps, shall be marked with a buoy.

#### **\$9006. Marking of Traps.**

Every trap used to take finfish or crustaceans shall be marked with a buoy. Each buoy shall be marked to identify the operator as follows:

- (a) For a trap used to take lobster the commercial fishing license identification number followed by the letter "P."
- (b) For a trap used to take Dungeness crab or hagfish, the commercial fishing license identification number only.
- (c) For a trap used to take finfish other than sablefish or hagfish, the commercial fishing license identification number followed by the letter "Z."
- (d) For a trap used to take sablefish, the commercial fishing license identification number followed by the letter "B."

#### **\$9007. Removal of traps without buoy or with unmarked buoy.**

Any trap used without a buoy, or with a buoy which is not marked pursuant to Section 9006, is a public nuisance and shall be removed from the waters of this state by any person authorized to enforce this code.

#### **\$9008. Traps used in violation of this code.**

Any trap used in violation of this code, or any regulations adopted pursuant thereto, is a public nuisance and, except as provided in Section 9007, shall be seized pursuant to Article 3 (commencing with Section 8630) of Chapter 3.

#### **\$9011. Crab Trap Requirements.**

- (a)(1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, Dungeness crab, as defined in Section 8275, may be taken with Dungeness crab traps.
- (2) A Dungeness crab trap may have any number of openings of any size. However, every Dungeness crab trap shall have at least two rigid circular openings of not less than 4¼ inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.
- (3) Any rock crab taken with a crab trap used pursuant to this subdivision to take Dungeness crab shall be immediately returned to the waters from which it was taken. No person shall possess rock crab aboard any vessel when the vessel is being used to take Dungeness crab.
- (b) (1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock crab, as defined in Section 8275, may be taken with rock crab traps.
- (2) A rock crab trap may have any number of openings of any size. However, a rock crab trap constructed of wire mesh with an inside mesh measurement of not less than 17/8 inches by 37/8 inches, with the 37/8 inch measurement parallel to the floor shall have at least one rigid circular opening of not less than 31/4 inches, inside diameter, located on any outside wall of the rearmost chamber of the crab trap and shall be located so that at least one-half of the opening is in the upper half of the trap. Rock crab traps constructed of other material, shall have at least two rigid circular openings of not less than 31/4 inches, inside diameter, on the top or side of the rearmost chamber of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap. No rigid circular opening, as required, shall extend more than 1/2 inch beyond the plane of the wall side or top of the trap in which it is located, and it shall be clearly accessible to any crab which may be in the trap.
- (3) No person shall possess any lobster aboard a vessel while the vessel is being used pursuant to this subdivision to take rock crab. Any Dungeness crab taken with a crab trap pursuant to this subdivision to take rock crab shall be immediately returned to the waters from which it was taken. No person shall possess Dungeness crab aboard any vessel when the vessel is being used to take rock crab.

#### **\$9012.**

Take crab commercially and for sport on same

day from vessel prohibited; Restrictions on use in Districts 6, 7, 8, and 9.

- (a) No vessel may be used to take and land crab for both commercial and sport purposes in the same day.
- (b) In Districts 6, 7, 8, and 9, no trap shall be used to take Dungeness crab if that trap is attached to another trap or other traps by a common line.

### **\$9015. Prawn and shrimp trap requirements.**

- (a) Subject to Article 18 (commencing with Section 8590) of Chapter 2, prawns or shrimp, as defined in Section 8590, may be taken with prawn traps or shrimp traps under a general trap permit issued pursuant to Section 9001.

- (b) A prawn trap or a shrimp trap shall be six feet or less in its greatest dimension. Every opening from the exterior to the interior of a prawn trap or a shrimp trap shall be five inches or less in any dimension.

### **\$9020. Bait-fish trap requirements.**

- (a) Subject to Section 8400, California killifish (*Fundulus parvipinnis*), mudsuckers (*Gillichthys mirabilis*), yellowfin gobies (*Acanthogobius flavimanus*), shiner perch (*Cymatogaster aggregata*), and staghorn sculpin (*Leptocottus armatus*) may be taken with baitfish traps under a general trap permit issued pursuant to Section 9001.
- (b) A baitfish trap shall not exceed 12 inches

in width, 12 inches in height, and 36 inches in greatest length with entrance at small ends of funnels or fykes not to exceed 2 inches in diameter.

### **\$9022. Finfish trapping; Restricted Districts; Exceptions.**

- (a) Notwithstanding Section 9000, traps used to take finfish may not be used in Districts 10, 11, and 12, except for bait fish traps as provided for in Sections 8400 and 9020.
- (b) Except as otherwise provided in subdivision (a), all marine species of finfish subject to Section 8403 may be taken with one or more finfish traps as prescribed by the Commission under a general trap permit issued pursuant to Section 9001.

## **Index of Species**

Abalone .....	5, 18, 24, 28, 70
Anchovy .....	3, 9, 16, 28, 29, 30, 53
Bait Fish .....	9, 16, 26, 28, 30, 84
Barracuda .....	12, 18, 33
Bass .....	
Barred Sand .....	5
Black .....	5, 18
Giant Sea Bass .....	5, 17
Kelp .....	5
Spotted Sand .....	5
Striped .....	5, 18, 46
Cabazon .....	13, 17, 53, 54, 56, 58, 59
California Halibut .....	3, 17, 43, 48, 49, 50, 69
California Sheephead .....	9, 13, 17, 52, 54, 56, 59
Carp .....	18
Catfish .....	5, 17, 18
Cichlid .....	18, 28
Clams .....	5, 16, 18, 53, 80
Pismo .....	5, 18
Coonstripe Shrimp .....	9, 31
Crab .....	
Dungeness .....	2, 9, 10, 11, 12, 34, 35, 36, 40, 41, 42, 48, 79, 80, 81, 82, 83
Red .....	11, 81, 83
Rock .....	3, 7, 10, 34, 41, 42, 62, 63, 79, 81, 82, 83
Sand .....	53, 80
Yellow .....	10, 34, 53, 80, 81, 82
Crappie .....	5, 17
Crayfish .....	9, 16, 80
Croaker .....	
Corbina .....	5
Queenfish .....	30, 53
Spotfin .....	5
White .....	30, 53
White Seabass .....	7, 12, 16, 18, 33
Yellowfin .....	5, 12
Crustaceans .....	10, 18, 47, 80, 81, 82, 83
Frogs .....	18
Goby .....	8, 10, 18
Greenlings .....	12, 13, 17, 52, 54, 58, 59
Groundfish .....	11, 17, 35, 43, 47, 48, 49, 50, 58, 59, 60, 61, 79, 81, 82
Grunion .....	17, 53
Hagfish .....	10, 82, 83
Herring .....	8, 9, 13, 46
Invertebrates .....	5, 10, 52, 53, 63, 72, 79, 80
Kellett's Whelk .....	12, 41, 52, 53, 81
Kelp .....	16, 19, 20, 22, 48, 50, 53, 63, 82
Killifish .....	10, 18, 82, 84
Krill .....	5
Lamprey .....	18
Livebearer .....	18
Limpets .....	53, 80
Lingcod .....	46, 58
Lobster .....	3, 7, 9, 10, 12, 18, 23, 24, 28, 42, 45, 50, 51, 52, 62, 69, 80, 82, 83
Mackerel .....	3, 10, 25, 30, 31, 53, 60
Marlin .....	5, 17, 18, 34, 46
Minnnows .....	16

Mollusks .....	5, 10, 16, 18, 46, 80, 82, 81
Mudsuckers .....	82, 84
Mullet .....	18
Mussels .....	5, 16, 53, 80
Octopus .....	2, 12, 41, 52, 53, 63, 80, 82
Oysters .....	22, 80
Pacific Bonito .....	5, 17
Perch .....	
Sacramento Perch .....	5, 18
Shiner Perch .....	10, 17, 82, 84
Surfperch .....	17
Prawns .....	9, 10, 15, 47, 48, 49, 60, 61, 71, 72, 80, 82, 84
Rays .....	17, 50, 53
Rockfish .....	9, 11, 13, 17, 35, 43, 46, 49, 54, 56, 58, 59, 60, 61
Sablefish .....	10, 81, 83
Salmon .....	2, 3, 5, 7, 8, 18, 20, 22, 27, 31, 46, 48, 61, 63, 64, 65, 66, 68
Sardines .....	25, 28, 30, 68
Scorpionfish .....	12, 13, 16, 54, 56, 58, 59, 60
Sea Cucumber .....	5, 7, 10, 14, 17, 28, 47, 48, 49, 50, 68, 80
Sea Urchin .....	2, 6, 7, 10, 15, 23, 28, 68, 69, 70, 80
Shad .....	18
Shark .....	3, 5, 7, 8, 11, 18, 31, 32, 33, 34, 42, 50, 52, 53
Angel .....	5, 17, 43
Leopard .....	5, 17, 53
Shortfin Mako .....	33
Thresher .....	3, 5, 17, 32, 33, 34
White .....	5, 17, 33
Shrimp .....	2, 3, 9, 10, 12, 13, 14, 16, 28, 31, 42, 43, 47, 48, 49, 53, 60, 62, 80, 82, 84
Silverside .....	18
Skates .....	50, 53
Smelt .....	18, 30, 53, 68
Squid .....	3, 7, 8, 10, 12, 20, 24, 25, 28, 30, 31, 53, 68, 72, 73, 74, 75, 76, 77, 80
Staghorn Sculpin .....	8, 10, 82, 84
Stickleback .....	18
Sturgeon .....	5, 18
Swordfish .....	3, 5, 7, 10, 11, 28, 31, 32, 33, 34, 46, 77, 78
Sucker .....	9, 18
Sunfish .....	5, 18
Threadfin shad .....	18
Trout .....	
Dolly Varden .....	5, 17
Steelhead .....	5, 17, 46
Tuna .....	
Albacore .....	16, 22
Bluefin .....	5, 17
Skipjack .....	16
Yellowfin .....	5, 10, 17
Yellowtail .....	17, 18